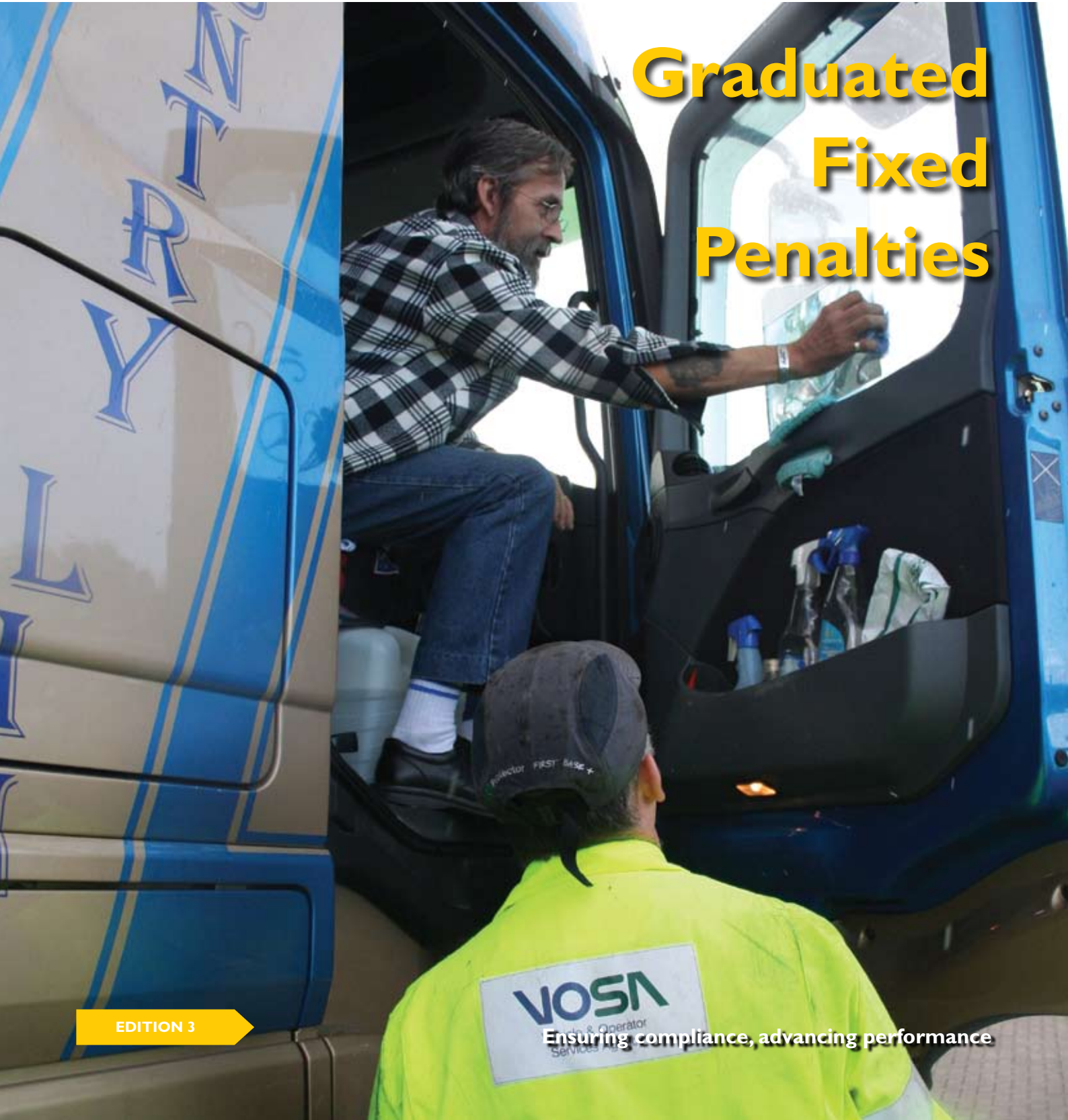




FREIGHT TRANSPORT ASSOCIATION

## FTA Compliance Guide

# Graduated Fixed Penalties



EDITION 3

Ensuring compliance, advancing performance



FREIGHT TRANSPORT ASSOCIATION

**FTA compliance guide to Graduated Fixed Penalties**

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Editor: **Sally Thornley**  
 Production: **Hilary Kingdon**  
 Design: **Tracey Garrett**

FTA compliance guides are produced once legislative changes have been published and new requirements and responsibilities are known. Compliance guides are intended to provide clear guidance to members on what to do and how to comply.

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\*Calls may be recorded for training purposes

## Introduction

New legislation introduced from April 2009:

- allows the Vehicle and Operator Services Agency (VOSA) to issue fixed penalties
- adds to the list of offences that can be dealt with by fixed penalty
- graduates the penalties for drivers' hours/records and some construction and use offences according to the level of offending
- introduces an on-the-spot deposit scheme for drivers who cannot supply a satisfactory UK address
- permits the immobilisation of prohibited vehicles
- requires operator licence holders to notify relevant fixed penalties to Traffic Commissioners

The new procedures apply in England, Wales and Scotland. The authorities in Northern Ireland are progressing the introduction of similar schemes and will be undertaking a separate consultation on their detail in due course.

This guide explains the key changes and should be read by anyone with responsibility for managing commercial vehicles or drivers. It is written to reflect the enforcement policy adopted by VOSA. However, the Agency has consulted closely with the Association of Chief Police Officers (ACPO) and the Association of Chief Police Officers Scotland (ACPOS) in developing policy.

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# Fixed penalty offences

A fixed penalty (or conditional offer in Scotland) is a system whereby offenders are penalised for certain specified offences without being convicted in a court. It allows the offender to avoid a criminal record and saves time and resources of enforcement officers and the courts. This system was previously only available to police officers for road traffic offences, but new legislation means that VOSA examiners also have the power to issue fixed penalty notices and more vehicle-related offences have been added to the list of those that can be dealt with by fixed penalty.

Legislation permits VOSA examiners to issue fixed penalty notices (known as conditional offers in Scotland) from 31 March 2009. However, VOSA examiners intend to start issuing notices from a 'go live' date of 28 May 2009 to drivers at roadside checks. Strictly speaking any fixed penalty offence may be dealt with by either a police officer or a



VOSA examiner, but VOSA examiners do not intend to issue fixed penalties for offences outside their normal area of enforcement, such as speeding.

In addition to the existing areas for fixed penalties, new legislation allows for fixed penalties to be issued in relation to:

- drivers' hours and records
- goods and passenger vehicle operator licensing
- Driver CPC
- vehicle prohibitions

These are all existing offences that could already be tried in a court; the only change is that they may now also be dealt with by fixed penalty.

So from April, fixed penalties can be used under the following key legal areas.

Legal area	Description
Parking and stopping	Includes parking offences, obstruction, leaving vehicle in a dangerous position, parking on the pavement or verge, and failing to stop
Use of roads	Breaches of traffic regulation orders, including one-way provision on trunk roads and temporary or experimental orders
Road speeds	Breaches of minimum and maximum road speeds
Safety of driver and passengers	Includes seat belt regulations, rules on carrying children in the front or rear of vehicles, together with requirements for motorcyclists to wear helmets and eye protection
Traffic signs and directions	Traffic signs and directions, such as traffic lights, one-way streets, give way signs and directions from police officers
Construction and use of vehicles	Includes using vehicles in a dangerous condition, overloading, insecure loads, control of vehicle, use of hand-held mobile phones, view to front, speed limiters, vehicle testing together with all aspects of vehicle roadworthiness
Driver licensing	Failure to hold the correct licence or to comply with relevant conditions (for example, not showing 'L' plates when driving on a provisional entitlement)
Insurance	Requirement to have minimum third party insurance for use of motor vehicle on public road
Identity of driver	Duty on the vehicle's keeper and others to notify the identity of the driver to the police in the case of certain offences
Vehicle tax and registration	Using incorrectly registered vehicle, failure to display correctly VED disc, trade licence or vehicle registration mark (including a plate obscured by dirt)
Drivers' hours and records	Requirements under both the domestic and EU rules in relation to hours, records and the obstruction of officers
Goods and passenger vehicle operator licensing	Includes failure to hold a licence or Community Authorisation and failure to comply with conditions governing their use
Driver CPC	Failure to produce evidence of qualification (or training exemption) when required
Vehicle prohibitions	Failing to comply with prohibitions for drivers' hours, roadworthiness or deposit scheme
<b>Key</b>  = existing fixed penalty offence areas  = new fixed penalty offence areas A full list of fixed penalty offences can be found in Appendix 1	

Fixed penalties can only be imposed in relation to offences which are being, or have been, committed on the occasion of detection. In other words, the offence needs to be committed at the time or immediately before the driver was stopped at the roadside. However, the Department for Transport (DfT) intends to supplement the legislation as soon as practicable to permit historic drivers' hours offences (for example where a chart from the previous week shows a daily rest infringement) to be included in the schemes.

Some fixed penalty offences could be applied to operators as well as drivers – such as overloading which is committed by those 'using' the vehicle – but VOSA advises that it currently only intends to issue fixed penalties to drivers at the roadside. However, this does not prevent VOSA examiners carrying out further investigations or pursuing operators via the courts or the operator licensing system.

## Penalty levels

Fixed penalties can require the offender to pay a fine and, for certain offences, accept penalty points on their driving licence (referred to as an endorseable offence). The level of fine is either specified in law (£60, £120, or £200), or is set at a default of £60 for endorseable offences or £30 for non-endorseable offences.

The new legislation sets a specific fine for some offences and introduces for the first time fines that are graduated according to the level of offending for the following types of offence.

- Drivers' hours
- Drivers' records
- Construction and use in particular in relation to:
  - overloading
  - speed limiters
  - tyre tread depth

Graduated offences are also noted in Appendix 1, but the detail of the graduation of fines is contained in Appendix 2.

The offences that contain the most graduation are in relation to drivers' hours and overloading. For drivers' hours offences the level of fine is set according to the length of time that a driver has spent driving or working over the legal limit or the degree of shortfall on a period of rest or break. For overloading, the level of fine is set according to the percentage of overload in relation to the maximum permitted weight. It is important to understand that the graduation is a matter of fact specified in law and that the level of fine is never at the discretion of the police or VOSA.

The legislation also permits the graduation of endorsements as well as fines. This was included with a view to introduce graduated points for speeding offences, but at the time of writing this is still awaiting further consultation.

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## Fixed penalty process

The process for police officers and VOSA examiners is broadly similar but is legislated for separately to take account of some differences in the status of vehicle examiners. The following details the processes in relation to fixed penalties issued by VOSA examiners. Details on the police system can be found from page 150 of the FTA 2009 Yearbook of Road Transport Law.

A fixed penalty for an endorseable offence cannot be issued if it would take the offender over the mandatory limit of points leading them to be disqualified from driving, which is 12 penalty points over a three year period for all drivers, or six penalty points within two years of passing their test for new drivers. If this was the case the matter must go to court.

When considering issuing a fixed penalty for an endorseable offence, the examiner will ask to see the driver's licence. If the driver is able to produce their licence and counterpart and the examiner is satisfied that the points will not take the driver over the limit for disqualification, a fixed penalty will be issued, the examiner will retain the driver's licence and the driver will be given a receipt for the licence. This does not mean that the driver has accepted the fixed penalty – they can still opt to challenge the matter in court (see below).

If the driver does not produce their driving licence at the roadside (and remember there is no offence committed if they don't) and the examiner is unable to make sufficient checks of the driver's licence via DVLA, the examiner will still issue a fixed penalty, but it will be considered as provisional until the driver produces his licence and counterpart within 14 days, by posting it to VOSA as specified on the notice. The requirement to produce the licence is a statutory requirement in its own right and must be complied with even if the driver intends to elect for a court hearing. In this

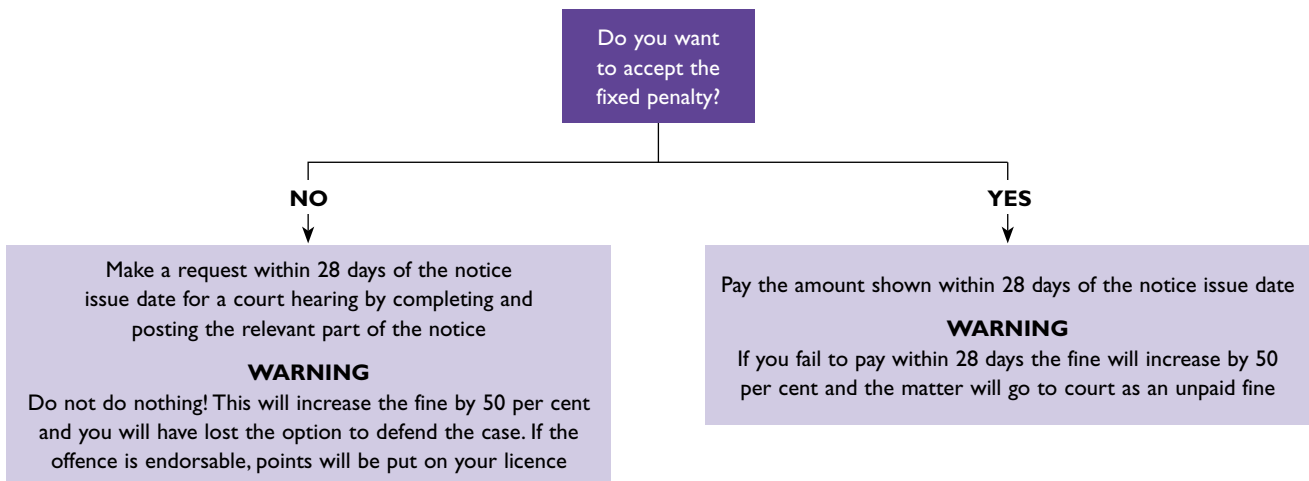
instance, the licence will be returned to the driver, although he/she must surrender the licence at court, as required. If the fixed penalty is accepted and the fine paid, the licence will be returned with the points added. The licence will be returned to the address on the licence – if this has changed, the driver must complete and sign the relevant sections of the licence before surrendering it.

On receipt of a fixed penalty, the recipient has a number of options to consider and these are slightly different in Scotland. The options are shown in the flowcharts opposite, but the key difference is that in the Scottish system, if the recipient does nothing within the 28 day period the matter will automatically be referred to the Procurator Fiscal for consideration of court action. In England and Wales, if the recipient wishes to take the matter to court they must request this within 28 days. If they do nothing the matter will be registered with the courts as an unpaid fine, incurring a statutory 50 per cent increase in the penalty amount, and the option to elect a court hearing will have been lost.

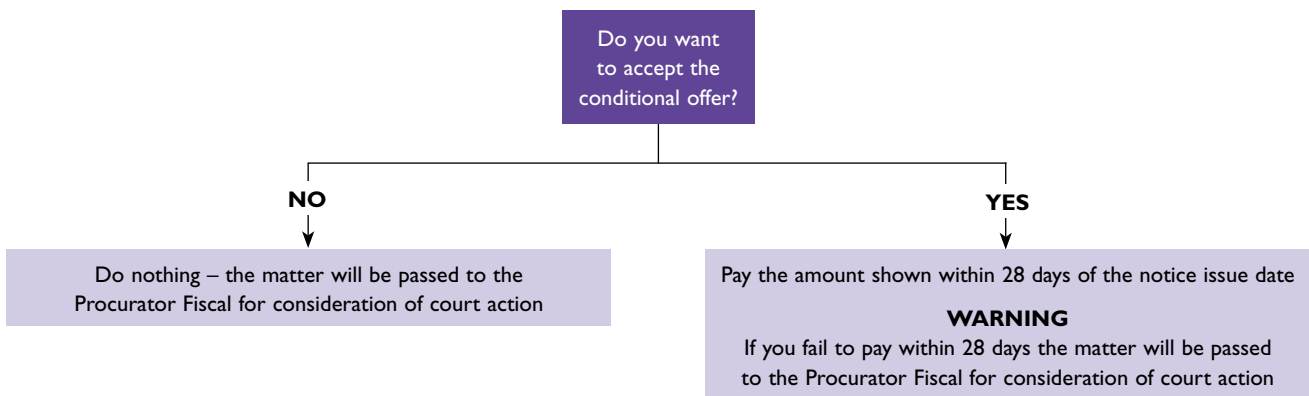
It is important to remember that each fixed penalty should be considered separately – even if they were issued on the same occasion, the driver can make different decisions for each notice. The penalties issued by a court will normally be greater than the fixed penalty offered, should the court find the accused guilty. Also the offender will have been convicted of a criminal offence. Therefore, it is usually only practical to consider electing to go to court where the accused feels they have a case to argue that they are not guilty, or that the circumstances are such that an absolute discharge may be appropriate. Specific and specialist legal advice should always be taken when considering defending the matter in court. FTA members can also contact the Member Advice Centre on 0870 60 50 000.



## Fixed penalty options – England and Wales



## Conditional offer options – Scotland



### How to pay a fixed penalty

The fixed penalty notice will contain full details on how to pay, but payment may be made:

**by post** – cash (notes only), cheque (not post-dated), postal order (or combination of these) all in Pounds Sterling only. Multiple fixed penalties can be paid on one cheque or postal order. Every payment must be accompanied by a completed remittance slip (found on fixed penalty notice) for each fixed penalty. Post in a sealed stamped envelope using the address shown on the notice

**by phone** – Visa, Mastercard, Switch, Delta, Maestro, Cirrus. The notice numbers must be quoted. Call 0300 123 9000 Mon–Fri 07.30–18.00, Sat 07.30–15.00, Sun – closed

**Payments for fixed penalties cannot be made in person at any VOSA office or directly to the VOSA examiner.**

If a notice has been lost or defaced, a duplicate can be requested by telephoning the VOSA contact centre. You will need to provide as much information as possible – date, location, vehicle registration and the person to whom the notice was issued. The payment/decision period will not be extended – the duplicate notice will have the same issue date as the original and the 28 day period will run from this original date.

### Complaints

Complaints can be made to VOSA by drivers or operators if you are dissatisfied with the way the fixed penalty was issued, or have reason to doubt that the offence listed justified issue of a fixed penalty notice. However, the 28 day period for payment/court election will not be put on hold while the complaint is investigated, so tight timescales apply. A completed compliant form must be received within 10 days of the issue date of the notice. On receipt of the complaint, the date of receipt will be recorded and an acknowledgement sent. The matter will be investigated and written notification of the outcome will be sent to the driver within 15 days of receiving the complaint form. This then allows a minimum of three days for the driver to decide whether to accept the fixed penalty or to ask for a court hearing, presuming the issue of the fixed penalty is upheld.

Complaints should be made in writing either by:

- email to [enquiries@vosa.gov.uk](mailto:enquiries@vosa.gov.uk)
- by post to VOSA Fixed Penalty Office, Ellipse, Padley Road, Swansea SA1 8AN

Complaints should include the following:

- fixed penalty reference number
- date of issue
- driver and vehicle details

- whether a prohibition was also issued at the time
- reasons for the complaint
- a request that receipt of the complaint is acknowledged immediately
- contact details of who should be informed of the outcome if the complaint includes a prohibition (note that the driver will be informed of the outcome of the fixed penalty complaint)

Remember that if it is not possible to complain to VOSA within 10 days, the driver still has a full 28 days from the date of issue to make a decision. If the fixed penalty was not justified, but the 10 day period has elapsed, members should still send the complaint to VOSA and contact FTA's Member Advice Centre as soon as possible before making any decisions.

## Deposit scheme

The new legislation also aims to tackle the long-standing issue where previously neither the police nor VOSA had any effective means of applying penalties to non-UK residents. Particular difficulties arose because a non-resident offender would be under no obligation to pay a fixed penalty if issued with one. Also, prosecutions in court would be unlikely to be practical for most relevant offences. This is because the offender would be under no legal obligation to attend court to answer any charge – except in the case of certain very serious offences which might justify the issue of a European Arrest Warrant or extradition proceedings, which generally do not apply in the case of vehicle-related offences.

To overcome these issues two changes are introduced to enable VOSA and the police to:

- issue fixed penalties to both UK and non-UK residents, regardless of whether the offence is endorseable (read more on this on page 8)
- request the payment of a financial deposit from an offender who cannot supply a satisfactory UK address

Deposit payments are made in respect of a fixed penalty or as a form of surety of a fine where an offence is to be prosecuted in court. They effectively amount to an on-the-spot fine (which an alleged offender can choose to contest in court if they wish to do so). They can only be requested by a police constable in uniform or a vehicle examiner who produces his/her authority.

To request a deposit the police constable or VOSA examiner must have reason to believe that the person is committing or has on that occasion committed a specified offence relating to a motor vehicle and that person must fail to provide a satisfactory address. The specified offences cover broadly the fixed penalty offences (see Appendix 1) together with other offences under the Road Traffic Acts, such as careless driving and drink-driving. The definition of a 'satisfactory address' is an address in the United Kingdom at which a constable or vehicle examiner considers it likely that it would be possible to find the person whenever necessary to do so in connection with the proceedings, fixed penalty notice or conditional offer. Therefore the vast majority of UK residents will not be required to pay a deposit, since they will generally have a fixed UK address that can be verified.

Most holders of UK driving licences will be able to supply a satisfactory address without the need to carry any additional documents, as VOSA and the police will be able to check their given address against Driver and Vehicle Licensing Agency (DVLA) records. It is therefore important to ensure that drivers are reminded to keep their address details on their driving licence up to date (it is a legal requirement anyway).

### Are your drivers' licences up to date?

Nearly eight million motorists (one in five) are risking a £1,000 fine because the address on their driving licence is inaccurate. Address details can be updated online (visit [www.dvla.gov.uk](http://www.dvla.gov.uk)) or by completing the relevant section of the counterpart driving licence.

Holders of non-UK driving licences resident in the UK and employed by UK companies should be encouraged to register with DVLA (see below) as soon as possible to obtain a counterpart driving licence. Vocational drivers are required to do this anyway within 12 months of becoming resident. In the meantime, utility bills or other proof of UK address should be carried to avoid a request for a deposit.

### How to register with DVLA

Holders of community licences with vocational entitlement who live in Great Britain must register their details with the Driver and Vehicle Licensing Agency (DVLA) within 12 months of becoming resident. For further information you can contact them on 0870 240 0009 or complete a D9 form, which can be downloaded at: [www.dvla.gov.uk/forms/onlineforms.aspx](http://www.dvla.gov.uk/forms/onlineforms.aspx)

The deposit requested will be of an amount equal to the fixed penalty amount where a fixed penalty has been issued. In the case of an offence that is to be prosecuted in court the deposit will be £300. If more than one offence has been committed on a single occasion there is a maximum total of £900 that can be requested. Where a deposit is paid in respect of a fixed penalty, the alleged offender still has 28 days to consider whether to elect for a court hearing instead of accepting the fixed penalty.

Deposits must be paid in full (part-payments are not accepted) and may be paid direct to the VOSA examiner at the roadside or to the VOSA contact centre. The examiner will accept cash (notes in Pounds Sterling only), credit or debit cards (maximum of two types from: Visa, Mastercard, Switch, Delta, Maestro or Cirrus) or a mixture of cash and one credit or debit card. The VOSA contact centre (0300 123 9000) accepts payment by any number of acceptable credit or debit cards (see page 5 for opening times).

Where a deposit has been paid in respect of a fixed penalty and the offender takes no further action during the subsequent 28 day period the deposit will be credited as payment of the fixed penalty. If the deposit has been paid and the matter proceeds to court (whether at the request of the alleged offender or the prosecuting authority), the deposit will be 'held over' until the conclusion of the proceedings and be put towards a fine imposed by the court or refunded if necessary.

A deposit will be refunded together with interest at the Bank of England base rate on the day the deposit was paid, in the following circumstances.

- If an intended prosecution was not proceeded within 12 months of the required deposit
- If a person was prosecuted in court and acquitted
- If a person was prosecuted in court but no fine imposed
- If a person was prosecuted in court and a fine lower than the deposit was imposed

If a deposit is not paid immediately the vehicle may be prohibited from use and immobilised (see below). The prohibition will be removed only if the:

- deposit is paid or fixed penalty is accepted and paid
- driver is convicted or acquitted by the court
- driver is informed none of the offences are to be proceeded with
- prosecution period has ended (six months for summary only offences)

## Immobilisation

The DfT has introduced powers to immobilise vehicles for two main reasons. Firstly to overcome the problem of offenders ignoring prohibition notices and simply driving off after VOSA or the police have left the enforcement site and also to prevent offenders who fail to pay a deposit (ie those who have not supplied a UK address) from driving away.

Enforcement officers may fit an immobilisation device to any vehicle that has been prohibited for one or more of the following.

- Unroadworthiness or overloading
- Drivers' hours offences
- International transport rules (goods and passenger vehicles)
- Failure to pay a deposit

Immobilisation devices may be fitted and removed by the police, VOSA examiners or a contractor operating on their behalf. The person fitting the device must attach a notice to the vehicle advising that a device has been fitted, warning that the vehicle must not be driven and specifying the steps to be taken to remove the device. In order for the device to be removed the prohibition must be lifted and in some cases a £80 release fee will need to be paid (see table top right).

Vehicles can be moved to another location (for example if it is causing an obstruction) or to a place where they can be immobilised safely and securely for a longer period of time. The latter event may happen where there is difficulty in bringing a vehicle into compliance with the law, for example with a serious defect, or where the driver is unwilling to accept responsibility for doing so and the owner cannot easily be identified. The driver or owner must be provided with details of where the vehicle is. If a vehicle is not claimed within

three months of being removed (or directed to be removed) it may be disposed, sold or destroyed.

The relevant charges are detailed in the table below.

Charges in relation to vehicle immobilisation	
Release of vehicle from immobilisation device	£80*
Removal of vehicle	£160
Storage of vehicle for each 24hrs or part 24hrs	£35
Disposal of vehicle	£50
*VOSA advises that it expects examiners to use their discretion and only charge where costs have been incurred by themselves or contractors (for example if the remover has to travel or return to a site)	

New offences are also introduced with the new powers.

Offences in relation to vehicle immobilisation	
Offence	Maximum penalty
False or misleading statements claiming prohibitions have been removed to secure removal of immobilisation device	2 years in prison and fine
False or misleading statements claiming prohibitions have been removed to secure possession of a vehicle	2 years in prison and fine
Failing to move vehicle within a reasonable time	£5,000
Removing or interfering with immobilisation device	£1,000
Removing or interfering with immobilisation notice	£500

The powers to immobilise prohibited vehicles are broadly drawn in legislation, but VOSA has issued policy guidance on how these powers should be used. This is contained in the next section below under 'Policy on immobilisation'.

# VOSA enforcement policy

## Policy on penalties

VOSA has stated that there will be no change to its enforcement policy as a consequence of the new powers – it will not be working to achieve a targeted performance for the number of fixed penalties issued. The revenue generated by fixed penalty fines will go directly to the Treasury and will not be allocated to, or ring-fenced for, VOSA activities.

It is important to understand that individual offenders do not have the right to be offered a fixed penalty. The decision on whether to issue a fixed penalty is at entirely at the discretion of the VOSA examiner or police officer in every case. The ability to offer fixed penalties is in addition to, rather than instead of, their ability to decide to issue verbal warnings for less serious offences or, at the other end of the scale, to prosecute serious offences. VOSA's stated policy is that examiners will issue fixed penalties as an alternative to prosecution, not as an alternative to a verbal warning. The fixed penalty system will also run alongside (not instead of) the issuing of offence rectification notices, together with the prohibition system that prohibits unfit vehicles from being used immediately or within a given timescale.

Only one offence can be detailed on each fixed penalty notice but, according to VOSA guidelines, each VOSA examiner may issue multiple notices up to a maximum of three per inspection. As both traffic and vehicle examiners can issue fixed penalties, where a vehicle is stopped and inspected by a vehicle examiner in relation to the condition of the vehicle and a traffic examiner in relation to drivers' hours rules, the driver could be issued with a maximum of six fixed penalties on that occasion. Only one endorseable fixed penalty will be issued within the inspection.

Where more than three fixed penalty offences, or more than one endorseable fixed penalty offence have been identified by a single examiner, VOSA examiners are directed to take the matter to court via a summons, as summarised in the table below.

Offence combinations per examiner		Non-endorsable fixed penalty offences				
		0	1	2	3	4+
Endorseable fixed penalty offences	0	–	FP	FP	FP	S
	1	FP	FP	FP	S	S
	2+	S	S	S	S	S

FP = dealt with by fixed penalty  
S = dealt with by summons or referred to Procurator Fiscal in Scotland

VOSA suggests a pragmatic approach when more than one of the same type of less serious offence has been detected, directing that normally only one fixed penalty notice should be issued. For example, where a driver has failed to return 10 tachograph charts to their employer within 42 calendar days, strictly speaking 10 separate offences have been committed, but VOSA would generally issue only one fixed penalty notice.

Fixed penalties for safety-critical roadworthiness offences are the only ones VOSA issue that carry mandatory

endorsement of the driver's licence, such as using a dangerous vehicle or using a vehicle with defective brakes, tyres or steering gear. Guidance is given as to when it is appropriate to issue a fixed penalty to a driver where an immediate prohibition has been placed on the vehicle for a roadworthiness problem, as an immediate prohibition confirms that the vehicle was being used in a dangerous condition, and therefore any fixed penalty will attract penalty points as well as a fine. For UK registered vehicles, the driver will be issued with a fixed penalty notice where:

- the examiner determines the defect is significant ('S' marked prohibition) and
- the defect would have been apparent on conducting their daily walk around inspection or
- the defect would have been apparent during the use of the vehicle

The examiner should take into account whether the defect is likely to have occurred on the journey currently being undertaken, in which case a fixed penalty should not be issued. In situations where the significant defect is determined to be related to a failure in the operator's maintenance system (rather than specifically the driver check) the operator will be investigated further. For non-UK registered vehicles, VOSA's policy is to issue a fixed penalty where an immediate prohibition has been issued in relation to a defect which is likely to pose a current or imminent risk to road safety, regardless of the driver's knowledge.

At the time of writing, VOSA is compiling detailed guidance on its enforcement policy in relation to fixed penalties and other enforcement actions. Look out in FTA's e-news or at [www.fta.co.uk](http://www.fta.co.uk) for further information.

## Policy on immobilisation

VOSA's guidelines state that vehicles will be generally immobilised:

- in any case where the continued use of the vehicle represents a danger to other road users (either because the vehicle is seriously defective, overloaded beyond design weights or because the driver has driven for too long or taken insufficient rest)
- where the vehicle has been prohibited for reasons other than those detailed above, and the examiner has other details or intelligence information leading them to believe the driver will not adhere to the conditions of the prohibition
- where VOSA is about to leave the site and there is no certainty that the terms of the prohibition will continue to be complied with, or
- a person who has been requested to pay a financial penalty deposit has failed to make the payment

The guidance goes on to say that, of course, each case will be considered on its own merits.



## Driver records

Two different types of driver record in relation to driving entitlement are maintained by different Government agencies – DVLA and VOSA.

### The DVLA driver licensing record

DVLA keeps a record of penalty points and disqualifications (known as licence endorsements) a driver obtains. For GB licence holders, or those GB-resident community licence holders registered with DVLA, this record reflects what is shown on the paper counterpart. As stated earlier in the guide, all drivers who obtain 12 penalty points over a three year period, or new category B drivers who obtain six penalty points within two years of passing their test, will usually be disqualified from driving all categories of motor vehicle.

A new system has been set up by DVLA that now allows penalty points to be recorded on the driving record of an unlicensed or foreign offender. This means that fixed penalties for endorsable offences (such as speeding) can be issued to these offenders because, for the first time, a police officer or vehicle examiner will be able to assess whether the offender

would be disqualified from driving in GB by reason of the accumulation of penalty points on his/her driving record.

### The VOSA driver conduct record

For holders of GB vocational driving licences (any licence category above a B), VOSA already maintains a driver conduct record. This includes details of driving licence endorsements (penalty points and disqualifications) obtained from DVLA. From May 2009, an additional record will include any accepted fixed penalties or successful convictions issued or obtained from VOSA.

Information on the record will be used by VOSA to consider further action, such as a warning letter; further investigation (of the driver and/or the operator/employer) or referral to a Traffic Commissioner. A Traffic Commissioner may decide to then consider taking action against the driver's vocational entitlement.

Drivers are entitled to ask details of their record under the Freedom of Information Act.

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## Implications for operator licensing

Operators will not receive fixed penalty notices from VOSA (unless they are also the driver and the operator entity is a sole trader or partnership). However, those operators with drivers that are found to be repeatedly offending will be investigated and referred to Traffic Commissioners, who have the ability to curtail, suspend or revoke the operator's licence.

Operator licence holders are required to notify Traffic Commissioners about relevant convictions on application and throughout the life of their licence. From 31 March 2009 operators are also required to notify any accepted relevant fixed penalties or conditional offers in relation to a relevant person or their servants or agents. Because of this, you will need to establish whether drivers have chosen to accept a fixed penalty or not. Appendix 5 shows a sample form you can use to issue to drivers so they can let you know of their decision. A full list of relevant persons and offences for notification to Traffic Commissioners can be found in Appendix 3.

For this reason, the person or company that operates the vehicle, which is being used on an operator's licence, at the time a fixed penalty notice is issued will be sent an Operator Notification Letter, which stipulates all the relevant details of the offence, within a few days of the event. The letter will be sent to the correspondence name and address stipulated on your operator's licence.

When notifying, make sure you tell the Traffic Commissioner what you have done to ensure that the offence will not be repeated. If you are unsure whether you need to notify or want advice on how to rectify problems and word your letter contact the Member Advice Centre on 0870 60 50 000.

The issue of a fixed penalty notice will also affect the operator's Operator Compliance Risk Score (OCRS), as the event will incur points. For further information see FTA's guide 'Understanding and Managing your Operator Compliance Risk Score', at [www.fta.co.uk](http://www.fta.co.uk). A high index score (average points obtained per event) could result in enforcement being targeted towards your operations.

## Actions for operators

The introduction of graduated fixed penalties and the associated schemes should not affect any operators and drivers that are complying with existing legislation, as it is merely a new method of holding offenders to account. However, it does present an opportunity to review and focus on driver-related activities and how they are managed to ensure your drivers are not caught out.

Operators should:

- ensure drivers are required to notify you of any roadside checks and fixed penalties received whilst under your control, preferably as part of their conditions of employment
- ensure drivers let you know if they decide to accept a fixed penalty or not (see Appendix 5)
- consider whether to request applicants for driving positions to produce a copy of their VOSA driver offence record
- ensure drivers (including agency drivers) are able to supply a satisfactory address when stopped at the roadside to avoid the need to pay a deposit (see page 5)
- decide whether to offer drivers access to advice when they have been issued with a fixed penalty
- communicate the changes to drivers – see sample letter in Appendix 4
- audit all your compliance systems, and in particular in relation to:
  - preventative maintenance systems
  - vehicle loading systems
  - drivers' hours and records
- take steps to remedy any issues found and document actions taken
- put in place systems to ensure Traffic Commissioners are notified of any fixed penalties obtained along with any convictions, advising of remedial actions

### Relevant legislation

The Fixed Penalty Offences Order 2009, SI No 483	Increases the list of offences that may be dealt with by way of fixed penalty
The Fixed Penalty (Amendment) Order 2009, SI No 488	Specifies fixed penalty fines and graduates fines for certain offences
The Road Safety (Financial Penalty Deposit) Order 2009, SI No 491	Lists offences, persons and circumstances where a deposit may be requested and specifies payment method
The Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009, SI No 492	Sets the amount of deposit needed according to the offence committed
The Road Safety (Immobilisation, Removal and Disposal of Vehicles) Regulations 2009, SI No 493	Introduces powers to immobilise, remove and dispose of vehicles subject to prohibitions
The Fixed Penalty (Procedure) (Amendment) Regulations 2009, SI No 494	Amends fixed penalty procedures in relation to VOSA vehicle examiners
The Fixed Penalty (Procedure) (Vehicle Examiners) Regulations 2009, SI No 495	Specifies procedures in relation to VOSA vehicle examiners issuing fixed penalties
The Road Safety (Financial Penalty Deposit) (Interest) Order 2009, SI No 498	Sets level of interest payable on returned deposits
SI = Statutory Instrument	

## Appendix I – Fixed penalty offences

The following table summarises the offences that may be dealt with by fixed penalties. Offences added to the list from April 2009 are shown in italics.

Fixed penalty offences summary			
Category	Description	Fixed penalty	Legal reference
Parking and stopping	Parking offence committed on a red route in Greater London	£60	Greater London Council (General Powers) Act 1974, section 15
	Any other parking offence committed in Greater London	£40	Greater London Council (General Powers) Act 1974, section 15, Road Traffic Regulation Act 1984, Highways Act 1980, section 137, Road Traffic Act 1988, sections 19 and 42 (unnecessary obstruction)
	Obstructing a highway with a vehicle	£30	Highways Act 1980, section 137
	Breach of a local authority order for a parking place on a road	£30	Road Traffic Regulation Act 1984, section 35A
	Breach of a parking place designation order (excludes failing to pay excess charge)	£30	Road Traffic Regulation Act 1984, section 47(1)
	Using a vehicle in contravention of a parking place designation order that includes traffic regulation provisions	£30	Road Traffic Regulation Act 1984, section 53(5)
	Breach of parking place designation order for use of a road for parking without charge	£30	Road Traffic Regulation Act 1984, section 53(6)
	Parking a heavy commercial vehicle on a verge or footway	£30	Road Traffic Act 1988, section 19
	Leaving a vehicle in a dangerous position	£60+3PP*	Road Traffic Act 1988, section 22
	Breach of pedestrian crossing regulations, except an offence in respect of a moving motor vehicles (other than a contravention of regulations 23, 24, 25 and 26 of the Zebra, Pelican and Puffin Crossings Regulations and General Directions 1997)	£60+3PP*	Road Traffic Regulation Act 1984, section 25(5)
	Failure to stop vehicle on being so required	£30	Road Traffic Act 1988, section 163
Use of roads	Using a vehicle in breach of a traffic regulation order outside Greater London	£30	Road Traffic Regulation Act 1984, section 5(1)
	Breach of traffic regulation order in Greater London	£30	Road Traffic Regulation Act 1984, section 8(1)
	Breach of experimental traffic order	£30	Road Traffic Regulation Act 1984, section 11
	Breach of experimental traffic scheme in Greater London	£30	Road Traffic Regulation Act 1984, section 13
	Using a vehicle in contravention of temporary prohibition or restriction of traffic in case of execution of works	£60+3PP**	Road Traffic Regulation Act 1984, section 16(1)
	Wrongful use of a special road	£60+3PP**	Road Traffic Regulation Act 1984, section 17(4)
	Using a vehicle in contravention of provision for one-way traffic on a trunk road	£30	Road Traffic Regulation Act 1984, section 18(3)
	Driving a vehicle in contravention of order prohibiting or restricting driving vehicles on certain classes of roads	£30	Road Traffic Regulation Act 1984, section 20(5)
	Using a vehicle in contravention of a street playground order	£60+2PP	Road Traffic Regulation Act 1984, section 29(3)
	Driving a motor vehicle elsewhere than on a road	£30	Road Traffic Act 1988, section 34
	Driving or cycling on a footway (England and Wales)	£30	The Highways Act 1835, section 72
Driving on a footway (Scotland)	£30	Roads (Scotland) Act 1984, section 129(5)	
Road speeds	Driving a motor vehicle in contravention of an order imposing a minimum speed limit under section 88(1)(b) (temporary speed limits)	£30	Road Traffic Regulation Act 1984, section 88(7)
	Speeding offences	£60+3PP	Road Traffic Regulation Act 1984, section 89(1)

Fixed penalty offences summary			
Category	Description	Fixed penalty	Legal reference
Safety of driver and passengers	Breach of seat belt regulations	£60	Road Traffic Act 1988, section 14
	Breach of restriction of carrying children in the front of vehicles	£60	Road Traffic Act 1988, section 15(2)
	Breach of restriction of carrying children in the rear of vehicles	£60	Road Traffic Act 1988, section 15(4)
	Breach of protective headgear rules for motor cycle drivers and passengers	£30	Road Traffic Act 1988, section 16
	Breach of head-worn eye-protector rules for motorcyclists	£30	Road Traffic Act 1988, section 18(3)
Traffic signs and directions	Failure to comply with traffic directions	£60+3PP***	Road Traffic Act 1988, section 35
	Failure to comply with traffic signs	£60+3PP	Road Traffic Act 1988, section 36
Construction and use of vehicles	Using vehicle in a dangerous condition etc, includes condition of vehicle, purpose for which it is used, number of passengers and the manner in which they are carried, together with the weight, position and distribution of its load or the manner in which it is secured	£60+3PP	Road Traffic Act 1988, section 40A (note: this can also be an offence under section 42)
	Breach of requirement as to brakes, steering-gear or tyres	Graduated (£60-£120)+3PP	Road Traffic Act 1988, section 41A
	Using a vehicle without the required test certificate being in force	£60	Road Traffic Act 1988, section 47
	Overloading of goods and passenger vehicles	Graduated (£60-200)	Road Traffic Act 1988, section 41B
	Breach of requirement to control the vehicle, use of mobile phones etc	£60 + 3PP	Road Traffic Act 1988, section 41D
	Breach of other construction and use requirements	Graduated (£30-£120)	Road Traffic Act 1988, section 42
Driver licensing	Driving vehicle otherwise than in accordance with the required licence	£60+3-6PP†	Road Traffic Act 1988, section 87(1)
Insurance	Using motor vehicle while uninsured or unsecured against third party risks	£200+6-8PP	Road Traffic Act 1988, section 143
Identity of driver	Failure by vehicle's keeper and others to notify police of identity of the driver in the case of certain offences	£120+6PP	Road Traffic Act 1988, section 172
Vehicle tax and registration	Using or keeping a vehicle on a public road without a vehicle licence, trade licence or nil licence being exhibited in the relevant manner	£60	Vehicle Excise and Registration Act 1994, section 33
	<i>Using a trade licence for unauthorised purposes or in unauthorised circumstances, etc</i>	£30	<i>Vehicle Excise and Registration Act 1994, section 34</i>
	Driving or keeping a vehicle without required registration mark	£30	Vehicle Excise and Registration Act 1994, section 42
	Failure to fix prescribed registration mark to a vehicle in accordance with regulations	£60	Vehicle Excise and Registration Act 1994, section 59
	Driving or keeping a vehicle with registration mark obscured, etc	£30	Vehicle Excise and Registration Act 1994, section 43
	Using an incorrectly registered vehicle	£30	Vehicle Excise and Registration Act 1994, section 43C
Drivers' hours and records	<i>Contravention of any requirement of the applicable Community rules as to periods of driving etc</i>	<i>Graduated fines (£30-200)</i>	<i>Transport Act 1968, section 96(11A)</i>
	<i>Contravention of any provision of the domestic drivers' hours code</i>	<i>Graduated fines (£30-200)</i>	<i>Transport Act 1968, section 96(11)</i>
	<i>Failure to use, etc, compliant recording equipment</i>	<i>Graduated fines (£30-200)</i>	<i>Transport Act 1968, section 97(1)</i>
	<i>Contravention of regulations made under section 98 or any requirement as to books, etc, of the applicable Community rules</i>	£200	<i>Transport Act 1968, section 98(4)</i>
	<i>Failing to comply with requirements relating to inspection of records or obstructing an officer</i>	£200	<i>Transport Act 1968, section 99(4)</i>
	<i>Failing to comply with requirements relating to inspection of recording equipment or obstructing an officer</i>	£200	<i>Transport Act 1968, section 99ZD(1)</i>

Fixed penalty offences summary			
Category	Description	Fixed penalty	Legal reference
<b>Goods vehicle operator licensing</b>	Failing to hold an operator's licence	£200	Goods Vehicles (Licensing of Operators) Act 1995, section 2(5)
	Using a goods vehicle without Community authorisation	£60	Goods Vehicles (Community Authorisations) Regulations 1992, regulation 3
	Failing to comply with conditions governing use of Community licence	£30	Goods Vehicles (Community Authorisations) Regulations 1992, regulation 7
<b>Passenger vehicle operator licensing</b>	Using a public service vehicle without an operator's licence	£200	Public Passenger Vehicles Act 1981, section 12(5)
	Using vehicle for Community regulated carriage of passengers otherwise than in accordance with authorisation or certificated etc	£30	Road Transport (International Passenger Services) Regulations 1984, regulation 19(1)
	Using vehicle without passenger waybill	£30	Road Transport (International Passenger Services) Regulations 1984, regulation 19(2)
	Using public service vehicle without a Community licence	£60	Public Service Vehicles (Community Licence) Regulations 1999, regulation 3
	Failing to comply with conditions governing use of Community licence	£30	Public Service Vehicles (Community Licence) Regulations 1999, regulation 7
	Using vehicle for UK cabotage operations without Community licence	£60	Road Transport (Passenger Vehicles Cabotage) Regulations 1999, regulation 3
	Using vehicle for UK cabotage operations without control document	£60	Road Transport (Passenger Vehicles Cabotage) Regulations 1999, regulation 4
	Failing to produce Community licence when requested	£30	Road Transport (Passenger Vehicles Cabotage) Regulations 1999, regulation 7(1)
	Failing to produce control document when requested	£30	Road Transport (Passenger Vehicles Cabotage) Regulations 1999, regulation 7(3)
<b>Driver CPC</b>	Failing to produce evidence of a certificate of professional competence (or of training exemption)	£30	Vehicle Drivers (Certificates of Professional Competence) Regulations 2007, regulation 11(7)
<b>Vehicle prohibitions</b>	Failing to comply with conditions of prohibition for drivers' hours infringements	£200	Transport Act 1968, section 99C
	Failure to comply with conditions of a prohibition for unfit or overloaded vehicles	£200	Road Traffic Act 1988, section 71(1)
	Failure to comply with conditions of a prohibition for non-payment of deposit	£200	Road Traffic Offenders Act, section 90D(6)
	Driving a foreign goods or passenger service vehicle in contravention of a prohibition	£200	Road Traffic (Foreign Vehicles) Act 1972, section 3
<b>Key</b>			
PP = Penalty points on driving licence			
* If committed in respect of a motor vehicle, otherwise £30			
** If committed in respect of a speed restriction, otherwise £30			
*** If committed in respect of a motor vehicle by failure to comply with directions of a constable, traffic officer or traffic warden, otherwise £30			
† If committed in a case where the offender's driving would not have been in accordance with any licence that could have been granted, otherwise £30			



## Appendix 2 – Graduated penalties

This appendix is divided into four key areas.

- Drivers' hours
- Drivers' records
- Overloading
- Other construction and use offences

### Drivers' hours graduated fixed penalties

#### EU drivers' hours

Infringement	Fixed penalty fine		
	£60	£120	£200
Daily driving – exceeding 9hrs (no extensions left)	More than 9hrs but less than 10hrs driving	10hrs or more but less than 11hrs driving	11hrs or more driving
Daily driving – exceeding 10hrs	More than 10hrs but less than 11hrs driving	11hrs or more but less than 12hrs driving	12hrs or more driving
Weekly driving – exceeding 56hrs	More than 56hrs but less than 58hrs driving	58hrs or more but less than 59hrs driving	59hrs or more driving
Two-weekly driving – exceeding 90hrs	More than 90hrs but less than 93hrs driving	93hrs or more but less than 94hrs driving	94hrs or more driving
Breaks from driving – exceeding 4.5hrs	More than 4.5hrs but less than 5.5hrs driving	5.5hrs or more but less than 6.5hrs driving	6.5hrs or more driving
Regular daily rest – less than 11hrs (no reductions left)	Less than 11hrs but more than 10hrs rest	10hrs or less but more than 9hrs rest	9hrs or less rest
Reduced daily rest – less than 9hrs	Less than 9hrs but more than 8hrs rest	8hrs or less but more than 7hrs rest	7hrs or less rest
Split daily rest – less than 12hrs in total	Less than 12hrs but more than 11hrs rest	11hrs or less but more than 10hrs rest	10hrs or less rest
Split daily rest – first rest less than 3hrs	Less than 3hrs but more than 2hrs rest	2hrs or less but more than 1hr rest	1hr or less rest
Split daily rest – second rest less than 9hrs	Less than 9hrs but more than 8hrs rest	8hrs or less but more than 7hrs rest	7hrs or less rest
Multi-manning daily rest – less than 9hrs in 30hrs	Less than 9hrs but more than 8hrs rest	8hrs or less but more than 7hrs rest	7hrs or less rest
Regular weekly rest – less than 45hrs (not able to reduce)	Less than 45hrs but more than 43hrs rest	43hrs or less but more than 42hrs rest	42hrs or less rest
Reduced weekly rest – less than 24hrs	Less than 24hrs but more than 22hrs rest	22hrs or less but more than 21hrs rest	21hrs or less rest
Weekly rest compensation – less than equivalent	Up to 3hrs less rest than required	3hrs or more but less than 4hrs less rest than required	4hrs or more less rest than required

#### Domestic drivers' hours – goods vehicles

Infringement	Fixed penalty fine		
	£60	£120	£200
Daily driving limit – exceeding 10hrs	More than 10hrs but less than 11hrs driving	11hrs or more but less than 12hrs driving	12hrs or more driving
Daily duty limit – exceeding 11hrs	More than 11hrs but less than 12hrs duty	12hrs or more but less than 13hrs duty	13hrs or more duty

#### Domestic drivers' hours – passenger vehicles

Infringement	Fixed penalty fine		
	£60	£120	£200
Daily driving limit – exceeding 10hrs	More than 10hrs but less than 11hrs driving	11hrs or more but less than 12hrs driving	12hrs or more driving
Daily working limit – exceeding 16hrs	More than 16hrs but less than 17hrs working	17hrs or more but less than 18hrs working	18hrs or more working
Interval for rest and refreshment as required	Driving for up to 1hr beyond required break	Driving for 1hr or more, but less than 2hrs beyond required break	Driving for 2hrs or more beyond required break

Infringement	Fixed penalty fine		
	£60	£120	£200
Daily rest periods between successive days – less than 11hrs	Less than 11hrs but more than 10hrs rest	10hrs or less, but more than 9hrs rest	9hrs or less
Regular daily rest – less than 10hrs	Less than 10hrs but more than 9hrs rest	9hrs or less but more than 8hrs rest	8hrs or less rest
Reduced daily rest – less than 8.5hrs	Less than 8.5hrs but more than 7.5hrs rest	7.5hrs or less but more than 6.5hrs rest	6.5hrs or less rest
Weekly rest – less than 24hrs	Less than 24hrs but more than 23hrs rest	23hrs or less but more than 22hrs rest	22hrs or less rest
Weekly rest in two-week period	Less than 24hrs but more than 23hrs rest	23hrs or less but more than 22hrs rest	22hrs or less rest

## AETR drivers' hours

Infringement	Fixed penalty fine		
	£60	£120	£200
Daily driving – exceeding 9hrs (no extensions left)	More than 9hrs but less than 10hrs driving	10hrs or more but less than 11hrs driving	11hrs or more driving
Daily driving – exceeding 10hrs	More than 10hrs but less than 11hrs driving	11hrs or more but less than 12hrs driving	12hrs or more driving
Fortnightly driving – exceeding 90hrs	More than 90hrs but less than 93hrs driving	93hrs or more but less than 94hrs driving	94hrs or more driving
Breaks from driving – exceeding 4.5hrs	More than 4.5hrs but less than 5.5hrs driving	5.5hrs or more but less than 6.5hrs driving	6.5hrs or more driving
Daily rest – less than 11hrs (no reductions left)	Less than 11hrs but more than 10hrs rest	10hrs or less but more than 9hrs rest	9hrs or less rest
Reduced daily rest – less than 9hrs	Less than 9hrs but more than 8hrs rest	8hrs or less but more than 7hrs rest	7hrs or less rest
Daily rest compensation – less than equivalent	Up to 3hrs less rest than required	3hrs or more but less than 4hrs less rest than required	4hrs or more less rest than required
Split daily rest – less than 12hrs in total	Less than 12hrs but more than 11hrs rest	11hrs or less but more than 10hrs rest	10hrs or less rest
Split daily rest – last rest less than 8hrs	Less than 8hrs but more than 7hrs rest	7hrs or less but more than 6hrs rest	6hrs or less rest
Multi-manning daily rest – less than 8hrs in 30hrs	Less than 8hrs but more than 7hrs rest	7hrs or less but more than 6hrs rest	6hrs or less rest
Reduced weekly rest at home/base – less than 36hrs	Less than 36hrs but more than 34hrs rest	34hrs or less but more than 33hrs rest	33hrs or less rest
Reduced weekly rest away from home/base – less than 24hrs	Less than 24hrs but more than 22hrs rest	22hrs or less but more than 21hrs rest	21hrs or less rest
Weekly rest compensation – less than equivalent	Up to 3hrs less rest than required	3hrs or more but less than 4hrs less rest than required	4hrs or more less rest than required

## Drivers' records

Infringement	Fixed penalty fine
Failure to ensure recording equipment installed in accordance with Article 3(1)*	£200
Failure to ensure the correct functioning of recording equipment or driver card in accordance with Article 13*	£60
Failure to ensure proper use of the recording equipment in accordance with Article 13*	£120
Failure to ensure the proper use of the driver card in accordance with Article 13*	£200
Failure to ensure that printing can be carried out correctly in the event of an inspection (other than failure to provide sufficient printing material), in accordance with Article 14(1)*	£120
Failure 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)*	£60
Using a driver card of which the driver is not the holder, contrary to Article 14(4)(a)*	£200
Using a defective card, contrary to Article 14(4)(a)	£60
Failure at the start of the journey, to print out information, etc, in accordance with Article 15(1)(a)*	£120
Failure at the end of the journey, to print out information, etc, in accordance with Article 15(1)(b)*	£120
Failure to use record sheets or driver card, in accordance with 15 (2)*	£200

Infringement	Fixed penalty fine
Unauthorised withdrawal of record sheet or driver card, contrary to Article 15(2)*	£120
Failure to enter legibly on the record sheet, when away from the vehicle, periods of time, in accordance with Article 15(2)*	£120
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)	£120
*Of the Community Recording Equipment Regulation	

## Overloading

Infringement	Fixed penalty fine		
	£60	£120	£200
Vehicle maximum authorised weight exceeded	Exceeded weight by up to 10 per cent	Exceeded weight by 10 per cent or more, but less than 15 per cent	Exceeded weight by 15 per cent or more
Combination maximum authorised weight exceeded			
Axle maximum authorised weight exceeded			
Vehicle maximum permitted laden weight exceeded			
Trailer maximum permitted laden weight exceeded			
Vehicle and trailer; other than an articulated vehicle, maximum permitted laden weight exceeded			
Exceeding any weights shown on a plate fitted in accordance with regulation 66 of the Construction and Use Regulations (plates for goods vehicles)			
Exceeding any weight shown in column (2) of the plating certificate (weights not be exceeded in Great Britain)			
Agricultural trailer appliance maximum gross weight exceeded			
Sum of weights of compensating axles exceeded			

## Other construction and use offences

Infringement	Fixed penalty fine
Failure to have a tread pattern of at least 1mm	£120*
Other breach of requirement as to breaks, steering-gear or tyres	£60*
Failure to meet requirements relating to speed limiters	£120
Failure to maintain vehicle etc, or to carry etc passengers so as not be a danger (under regulation 100(1) of the Road Vehicles (Construction and Use) Regulations 1986)	£60
Failure to carry load in a secure manner etc, so as not be a danger or nuisance (under regulation 100(2) of the Road Vehicles (Construction and Use) Regulations 1986)	£60
Failure to use vehicle for suitable purposes so as not be a danger or nuisance (under regulation 100(3) of the Road Vehicles (Construction and Use) Regulations 1986)	£60
Breach of other construction and use requirements not specified elsewhere (under S42 of the 1988 Road Traffic Act)	£30
*These offences also carry a fixed penalty of three penalty points on the driver's licence	

## Appendix 3 – Goods vehicle operator licensing notifiable offences

The following tables refer to a 'relevant person', which is:

- the licence holder
- any company of which the holder is a director
- where the holder is a company, any person who is a director of that company
- where the holder operates vehicles in partnership with other; those others
- any company of which any company director or partner is the director
- where the holder is a company, any company of which the holder is a subsidiary

Notifiable offences committed by 'relevant person' or their servants or agents
An offence under section 53 of the Road Traffic Act 1988 (plating certificates and goods vehicle test certificates)
An offence committed in relation to a <b>goods vehicle</b> consisting in the contravention of any provision (however expressed) contained in or having effect under any enactment relating to: <ul style="list-style-type: none"> <li>• the maintenance of vehicles in a fit and serviceable condition</li> <li>• limits of speeds and weight laden and unladen, and the loading of goods vehicles, or</li> <li>• the licensing of drivers</li> </ul>
An offence under, or of conspiracy to contravene, Part VI of the Transport Act 1968 (drivers' hours and records) committed in relation to a <b>goods vehicle</b>
An offence under section 173 or 174 of the Road Traffic Act 1988 (forgery, false statements and withholding of information) committed in relation to an international road haulage permit within the meaning of that act
An offence under section 2 of the International Road Haulage Permits Act 1975 (removing or causing or permitting the removal of a goods vehicle or trailer from the United Kingdom in contravention of a prohibition issued under that section)
An offence under: <ul style="list-style-type: none"> <li>• section 3 of the Controlled Pollution Act 1974</li> <li>• section 2 of the Refuse Disposal (Amenity) Act 1978</li> <li>• section 1 of the Controlled Pollution (Amendment) Act 1989</li> <li>• section 33 of the Environmental Protection Act 1990</li> <li>• regulation 38(1)(a) or (b) of the Environmental Permitting (England and Wales) Regulations 2007 committed in relation to a waste operation (within the meaning of those regulations)</li> </ul>
An offence committed in relation to a <b>goods vehicle</b> consisting in the contravention of: <ul style="list-style-type: none"> <li>• any provision (however expressed) prohibiting or restricting the waiting of vehicles which is contained in an order made under section 1, 6, 9 or 12 of the Road Traffic Regulation Act 1984, including any such order made by virtue of paragraph 3 of Schedule 9 to that act (local authority powers to be exercisable also by the Secretary of State)</li> <li>• any provision which is contained in a traffic regulation order; within the meaning of section 1 of that act, by virtue of section 2(4) of that act (lorry routes)</li> </ul>

Additional notifiable offences committed by 'relevant person'
An offence under: <ul style="list-style-type: none"> <li>• the Goods Vehicle (Licensing of Operators) Act 1995</li> <li>• part V of the Transport Act 1968 or section 233 or 235 of the Road Traffic Act 1960 so far as applicable (by virtue of Schedule 10 to the 1968 Act) to licences or means of identification under that part</li> <li>• regulation 33(2) or (3) of the Good Vehicles (Operator Licences, Qualifications and Fees) Regulations 1984</li> <li>• any regulation made under the Goods Vehicle (Licensing of Operators) Act 1995 or the Transport Act 1968 which is prescribed for the purpose of this paragraph</li> </ul>
An offence under, or of conspiracy to contravene, section 13 of the Hydrocarbon Oil Duties Act 1979 (unlawful use of rebated fuel) committed in relation to a <b>goods vehicle</b>
An offence under section 74 of the Road Traffic Act 1988 (operator's duty to inspect, and keep records of inspection of, goods vehicles)

## Appendix 4 – Sample letter to goods vehicle drivers

Dear .....

### **New enforcement sanctions for VOSA**

As you may be aware, the Vehicle and Operator Services Agency (VOSA) is able to issue fixed penalty notices to drivers found to have broken the law at roadside checks. The ability to issue fixed penalties has also been extended to apply to more offences, such as drivers' hours and driver CPC infringements.

It is entirely at the discretion of the enforcement officer whether to offer you a fixed penalty, but they could be issued instead of taking the matter to court. Fixed penalties always include a fine, which can range from £30 to £200 depending on the offence and level of offending, but can also attract penalty points on your driving licence (known as an endorseable offence). In law you will normally be disqualified from driving any vehicle if you 'tot up' 12 points or more over a three-year period (or six penalty points within two years of passing your test if you are a new driver). If this was the case, the matter must go to court. Not only could you be fined or disqualified from driving, VOSA will also be keeping a record of the fixed penalties you receive and if you get too many, the Agency could report the matter to the Traffic Commissioner, who could suspend or revoke your vocational driving licence entitlement.

If the offence is endorseable you will have to produce your driving licence at the roadside or within 14 days by post to VOSA. You will have 28 days to decide whether you wish to accept the penalty or to ask to take the matter to court – even if you have surrendered your driving licence. As an operator licence holder, we are legally obliged to inform the Traffic Commissioner every time you accept a fixed penalty notice as well as when you are convicted. It is for this reason that you must inform us immediately if you are issued with a fixed penalty.

You should always make sure you comply with the law in all areas, but you should pay particular attention to ensuring you:

- carry out your vehicle defect check every time you take over a vehicle – you will get penalty points along with fines if you use a vehicle with defective brakes, steering-gear or tyres
- know your load is safe, secure and not overloaded – you will get penalty points along with fines if you use a vehicle that is dangerous because of the way in which it is loaded
- comply with all the rules on drivers' hours and records – you could be fined by fixed penalty up to £200 for every infringement, or more if it is taken to court
- obey all traffic rules and always watch your speed
- never use a hand-held phone when driving and make sure you always have proper control of your vehicle
- keep the address on your driving licence up to date (you could be fined £1,000 for failing to do this anyway) – otherwise you could be asked to pay a deposit of up to £900 at the roadside
- always be polite and comply with requests from enforcement officers – obstructing them is a serious criminal offence
- remember that you have 28 days to decide whether to accept a fixed penalty – consider taking legal advice if you are unsure
- remember that you have the right to legal representation if you are asked to make a formal statement
- never drive a vehicle that has been prohibited and never interfere with an immobilisation device or notice
- always inform your manager as soon as possible if you are stopped at a roadside check

Thank you for taking the time to read this letter. If you have any questions, please contact your manager.

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## Appendix 5 – Sample driver declaration form

Fixed penalty/conditional offer details	
Fixed penalty conditional offer reference	
Date of issue	
Driver name	
Vehicle registration	

*Tick as applicable*

I accepted the above-mentioned fixed penalty notice or conditional offer on  
 ..... (insert date).

**OR**

I requested the above-mentioned fixed penalty (England and Wales) to be referred to court on  
 ..... (insert date) or have chosen to allow the conditional offer (Scotland)  
 to be submitted to the Procurator Fiscal.

Signed .....

Name .....

Date .....

## Appendix 6 – Fixed penalty notice example

Section 54 & Section 75 Road Traffic Offenders Act 1988



Vehicle & Operator Services Agency

### Fixed Penalty Notice

REF:

**PLEASE READ THE EXPLANATORY NOTES ON THE BACK OF THIS NOTICE**

Driver Details	Vehicle Details
Name: _____	Reg No: _____ Make: _____
Address: _____ _____	Nationality: _____
Driver Licence No: _____ DOB: _____	Trailer Details
	Number 1: _____
	Number 2: _____

Following inspection of the above vehicle I had reason to believe that the offence indicated below was being or had been committed.

Endorsable Offence (IMPORTANT See Section 4 Overleaf)	Penalty
<p>GB drivers licence holders must submit their licence to VOSA within 14 days of receipt of this notice</p>	

Payment Due Date: \_\_\_\_\_

Issuing Officer Details	Driver Details
Signature: _____	Signature: _____
Name: _____	Name: _____
Date of Notice: _____ Time: _____	
Place where issued: _____	

An executive agency of the  
Department for  
**Transport**

### Remittance Slip

### Fixed Penalty Reference No.

To: <b>VOSA Fixed Penalty Office</b> Ellipse, Padley Road, Swansea SA1 8AN Telephone 03001239000	Date: _____
I enclose *Cash / *Cheque / *Postal Order No _____ for £ _____	
Being the full payment for the above Fixed Penalty Notice (to contest any offence see notes overleaf) <b>Please see reverse of notice for paying by credit or debit card</b>	
Block Capitals Please Full Name: _____	DOB: _____
Address: _____ _____ Postcode: _____	

\*Delete as appropriate

(Yellow) Driver copy (White) Stays in pad

FPN-E-04/09

# Explanatory Notes England and Wales

## EXPLANATORY NOTES PART 1

### 1. Notice of Fixed Penalty (England and Wales)

This notice offers the opportunity to discharge any liability to conviction of the offence(s) to which the notice relates. You have 28 days from the date of this notice to pay the fixed penalty. If you have received a financial penalty deposit requirement please also read section 2 below. You may choose to have your case dealt with by a court instead, if so, please see section 6 below.

Payment can be made (quoting the reference number on the front of the notice) and by identifying the offences in respect of which you are making the payment, by the following methods:

- (a) By major Debit/Credit card by telephone to VOSA Fixed Penalty Office on Telephone Number 03001239000
- (b) If a UK address holder, by sending a Cheque/Postal Order With the attached remittance slip to VOSA Fixed Penalty Office, Ellipse, Padley Road, Swansea SA1 8AN.

**Late payments or payments by instalments will not be accepted.** If you fail to pay the fixed penalty within 28 days, the unpaid penalty plus one-half the amount of the penalty may be registered as a fine at a Magistrates Court for enforcement against you.

### 2. Payment of Financial Penalty Deposit Requirement

A vehicle examiner or constable may impose a financial penalty deposit requirement if you do not provide a satisfactory address. A satisfactory address is an address in the United Kingdom at which the vehicle examiner considers it likely that it would be possible to find you whenever necessary in connection with the fixed penalty notice. The deposit amount is equal to the stated fixed penalty amount.

(If you wish to be tried by a court for the offence detailed overleaf, you have 28 days from the date of issue of the notice to request a court hearing. See section 6 below).

Financial Penalty Deposits payments can be made by the following methods:

- (a) By major credit cards to the VOSA examiner who will process the payment.
- (b) Cash payments in Pounds (£) Sterling only.
- (c) By Major Debit/Credit card by telephone to VOSA Fixed Penalty Office on Telephone Number 03001239000

*Please note: Failure to pay the required amount will result in the vehicle being prohibited from moving and possibly immobilised.*

**3. Refund of Cash Financial Penalty Deposit** Where a financial penalty deposit has been paid in cash at the roadside a written receipt will be issued for any deposit taken. The back of the receipt will contain all the steps the Secretary of State must take to affect a refund if a prosecution is not brought, or is not successful, or no fine is imposed.

### 4. Offences carrying obligatory endorsement of a driving licence

**GB Issued Licences:** If the front of this notice states that the offence shown carries obligatory endorsement of your driving licence, you are required by law to provide your licence (including both the card and the counterpart) either at the time of the encounter, by surrendering it to the examiner or sending it to the VOSA Fixed Penalty Office, Ellipse, Padley Road, Swansea SA1 8AN within 14 days from the date of the notice and quoting the reference number of the notice. (This applies to a GB issued driving licence) The appropriate number of points will then be entered onto the counterpart of your Driving Licence. **You must produce these documents even if you do not want to be dealt with by means of Fixed Penalty.**

If the full drivers licence is surrendered to the examiner you will be given a receipt and the examiner will forward the licence to the VOSA Fixed Penalty Office. If the licence is sent by you to the VOSA Fixed Penalty Office within the 14 day period the fixed penalty will be treated as **Provisional** pending safe delivery of the licence. A search of the driver database will then be carried out for any previous allocated points. If it is found that the offence cannot be dealt with by fixed penalty due to an excess of endorsable points already on the licence which could lead to consideration of disqualification action, you will be informed that the matter will be referred to court and any payment made will be returned.

Once you have surrendered your licence (which must be both the card and the counterpart), you must pay the Fixed Penalty amount within 28 days or request that the matter be dealt with by a Court (see section 6).

**Other Licences:** If you do not have a GB issued driving licence or counterpart, a driving record will be created for you. The appropriate number of points will then be entered onto your driving record.

### 5. Prohibition Action

Any vehicle prohibited for non payment of a deposit will remain under prohibition until full payment of the financial penalty deposit is made, payment of the fixed penalty is made, you are convicted or acquitted of the offence, you are informed that you are not to be prosecuted for the offence or the prosecution period (a period of 12 months from the date of the deposit requirement, or shorter in some circumstances) has expired.

### 6. Alternative to a Fixed Penalty

If you decide to be tried by a Court for the offence detailed overleaf you **MUST** complete **PART 2** below and return it within 28 days to: The Fixed Penalty Office, Ellipse, Padley Road, Swansea SA1 8AN. You will then receive a Summons which will give the date and time and location set for the hearing.

### 7. Notification of Intention to Bring Proceedings

If you have been notified that we intend to prosecute you for the offence detailed on this notice, you will be contacted in due course at the address you provided as shown overleaf.

### 8. Notification of information to Employers

VOSA will provide the details of the offence overleaf to the appropriate Employer/Operator to allow for any operator licensing requirements to be complied with.

### 9. Enquiries & Complaints

If you require any assistance with this notice or wish to complain about the issue of the notice, please telephone the VOSA Fixed Penalty Office on 03001239000. They cannot however give legal advice or recommend what choice you should make.

**You may wish to seek legal advice in relation to this matter.**

## PART 2

To: **VOSA Fixed Penalty Office**, Ellipse, Padley Road, Swansea SA1 8AN.

Tel: 03001239000

I wish to be dealt with by a court for the offence detailed in Fixed Penalty Reference No: \_\_\_\_\_  
(To pay the notice use other side, see explanatory notes)

### Block Capital Letters Please

Full Name \_\_\_\_\_ Date of Birth \_\_\_\_\_

Address \_\_\_\_\_

Postcode: \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_

EXPN-EW-04/09

## FTA support

FTA aims to equip members with all the tools and support they need to help reduce the risks of their drivers gaining graduated fixed penalty fines and prohibitions. In addition to this compliance guide, FTA offers:



### Information

#### **Website – [www.fta.co.uk/graduatedfixedpenalties](http://www.fta.co.uk/graduatedfixedpenalties)**

A dedicated web page has been set up to provide you with the latest information, news and tools available to download to assist with Graduated Fixed Penalties.

#### **Member Advice Centre**

Available Monday to Friday, 9am to 5pm, this useful helpline is available to members to access our team of dedicated transport advisors. Our knowledgeable advisors are on hand to answer any legal or operational queries you may have.

#### **Email news bulletins**

Email news bulletins are available to members to keep you informed of the latest developments including updates on Graduated Fixed Penalties.

#### **Freight magazine**

This monthly publication is free for members and covers topical issues such as Graduated Fixed Penalties.

#### **Free member briefings**

Available at a variety of venues throughout the year are our popular free member briefings. Each briefing covers the latest information available on legislative changes and provides best practice advice on coping with these new developments.

#### **Transport Manager seminars**

FTA puts on a number of conferences and seminars throughout the year, including the popular Transport Manager seminars. These informative events cover all the latest policies including Graduated Fixed Penalties and in-depth guidance to best practice procedures. To view the dates and venues available for all of our events please keep an eye on the website at [www.fta.co.uk/events](http://www.fta.co.uk/events)

#### **OCRS Compliance and Support Guides**

Graduated Fixed Penalties issued under the legal area of 'construction and use of vehicles' may be issued in addition to VOSA adding points against your OCRS. For information and advice on how to improve your scores and in turn reduce the risk of a fixed penalty, FTA has produced a compliance and a support guide. Members can download their free copies from [www.fta.co.uk/ocrs](http://www.fta.co.uk/ocrs)



### Training

In addition to a wide range of courses that are detailed in our training prospectus, FTA can tailor courses to suit individual business requirements. For more information on the courses available or to discuss a bespoke course on reducing Graduated Fixed Penalties within your operation, please call 08717 11 22 22\*.



### Auditing

#### **Daily Driver Walk Around Check Audit**

Our experienced engineers will visit your premises and carry out independent 'stop and search' inspections at random on vehicles about to exit the premises, enabling you to quality monitor your procedures and the competency of your drivers and to reduce the risk of being stopped at the roadside with a vehicle defect.

#### **Tachograph Systems Audit**

Our Tachograph Systems Audit provides authoritative and comprehensive checks on the systems and procedures that you have in place to deal with driver management, drivers' hours compliance and working time regulations. Reports are produced which highlight infringements and recommendations for improvement and can measure your compliance against VOSA's new fixed penalty regime.




### Consultancy Service

FTA's team of experienced consultants are available to provide bespoke solutions to help operators face new challenges and implement efficient systems. For guidance and support tailored to your individual business requirements contact our consultants through the Member Service Centre.



## Shopfta

Shopfta is available online at [www.shop.fta.co.uk](http://www.shop.fta.co.uk), by email to [sales@fta.co.uk](mailto:sales@fta.co.uk) or by calling on 08717 11 11 11\*.  
The following products are just some of the items that may aid your drivers with the introduction of the new Graduated Fixed Penalties legislation.




### Graduated Fixed Penalties Poster

A2 poster explaining the offences for which VOSA and the police can issue fixed penalties to drivers during roadside enforcement checks, together with the levels of fine and whether the offence also attracts penalty points. Includes decision flowcharts for how to deal with fixed penalties and conditional offers, a list of top tips for drivers and information on how to keep driving licences up to date to help drivers avoid being asked to pay a deposit at the roadside

	member	non-member
1	each £6.00+VAT	£6.90+VAT
2+	each £5.00+VAT	£5.75+VAT

Code: **4461**




### Graduated Fixed Penalties Driver Card

A6, 4 page laminated pocket card explaining the key penalties and offences for which VOSA and the police can issue fixed penalties to drivers during roadside enforcement checks. Includes a checklist of key actions for drivers to help keep their vehicle legal and their driving licence safe

	member	non-member
1-49	each £1.00+VAT	£1.20+VAT
50-99	each £0.80+VAT	£0.96+VAT
100+	each £0.60+VAT	£0.72+VAT

Code: **4462**




### Drivers' Handbook

Updated version of our indispensable guide for drivers to do their jobs safely and responsibly. With sections on staying legal, when things go wrong, driving best practice, looking after yourself and driving abroad. Now comes with pull out drivers' walk around check guide

	member	non-member
1-5	each £6.50 no VAT	£7.50 no VAT
6-19	each £5.50 no VAT	£6.35 no VAT
20-49	each £5.25 no VAT	£6.06 no VAT
50-99	each £4.50 no VAT	£5.19 no VAT
100+	each £4.00 no VAT	£4.62 no VAT

Code: **4301**



### Routine Checks for Large Goods Vehicles DVD

A DVD providing a practical demonstration of all areas that need attention during a routine walk around check for large goods vehicles. It features an 18 tonne curtainside truck, an artic combination with a tank semi-trailer and a rigid fitted with a dropside body. A second disc provides a set of manager's notes, two test papers and two answer papers to be used in conjunction with disc one

	member	non-member
1-9	each £15.00+VAT	£20.00+VAT
10+	each £13.00+VAT	£18.00+VAT

Code: **4130**




### HGV Walk Around Check Poster

A2 poster giving useful information for hgv drivers on performing their daily walk around check

	member	non-member
1	each £6.00+VAT	£6.90+VAT
2+	each £5.00+VAT	£5.75+VAT

Code: **4267**




### Driver Vehicle Check and Defect Report Pad

**VC40** – 100 sheets per pad Also available in duplicate and triplicate

	member	non-member
	£3.25+VAT	£3.80+VAT

Code: **4224**



### Daily Vehicle Check and Defect Book

**FT20**. Enables the driver to report and record vehicle defects. 20 pages in duplicate

	member/non-member
	£2.10+VAT

Also available in triplicate

Code: **4322**





### Routine Checks for Vans and Light Goods Vehicles

A DVD providing a practical demonstration of all areas that need attention during a routine check for vans and light goods vehicles. It features a van, a 3.5 tonne drop-sided vehicle with a trailer attached and a 7.5 tonne tipper. A second disc provides a set of manager's notes, two test papers and two answer papers to be used in conjunction with disc one

		member	non-member
1-9	each	£15.00+VAT	£20.00+VAT
10+	each	£13.00+VAT	£18.00+VAT

Code: **4450**



### Safe Loading of Vans and Light Goods Vehicles

A DVD showing the importance and best practice in relation to loading within weight limits, even distribution of load and securing of the load. A second disc provides a set of manager's notes, two test papers and two answer papers to be used in conjunction with disc one

		member	non-member
1-9	each	£15.00+VAT	£20.00+VAT
10+	each	£13.00+VAT	£18.00+VAT

Code: **4203**



### Safe Loading of Vans Guide

A5, 24 page guide for van drivers including information on legislation, various weights, load distribution and methods of restraining goods  
member £3.00 no VAT  
non-member £3.50 no VAT

Code: **4149**

### Van Load Safety Driver Card

A6, 4 page laminated pocket card detailing best practice tips in relation to vans, loads, drivers and other road users

		member	non-member
1-49	each	£1.00+VAT	£1.20+VAT
50-99	each	£0.80+VAT	£0.96+VAT
100+	each	£0.60+VAT	£0.72+VAT

Code: **4152**



### Van Walk Around Check Poster

A2 poster giving useful information for van drivers on performing their daily walk around check

		member	non-member
1	each	£6.00+VAT	£6.90+VAT
2+	each	£5.00+VAT	£5.75+VAT

Code: **4268**



### Van Check and Defect Report – pad in triplicate

**VAN40 – 50 sets per pad**

member £4.40+VAT  
non-member £5.05+VAT

Code: **4399**

MEMBER SERVICE CENTRE

08717 11 22 22\*

MEMBER ADVICE CENTRE

0870 60 50 000

MEMBER FEEDBACK

01892 552246

\*Calls may be recorded for training purposes



FREIGHT TRANSPORT ASSOCIATION

HERMES HOUSE, ST JOHN'S ROAD, TUNBRIDGE WELLS, KENT TN4 9UZ

TELEPHONE: 01892 526171 FAX: 01892 534989 WEBSITE: www.fta.co.uk

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