Draft Order laid before Parliament under section 90E(4) of the Road Traffic Offenders Act 1988, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. 0000

ROAD TRAFFIC

The Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009

Made - - - -	*2009*
Coming into force - -	*31st March 2009*

This Order is made in exercise of the powers conferred by section 90B(2) and 90E(3) of the Road Traffic Offenders Act 1988(**1**).

The Secretary of State has consulted such representative organisations as appear appropriate in accordance with section 90E(2) of that Act.

A draft of this instrument has been approved by each House of Parliament in accordance with section 90E(4) of that Act.

Accordingly, the Secretary of State makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009 and shall come into force on 31st March 2009.

(2) In this Order—

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

"the Community Recording Equipment Regulation" has the meaning given in section 97(7) of the Transport Act 1968(**3**);

(**1**) 1988 c.53. Sections 90B and 90E were inserted by section 11 of the Road Safety Act 2006 (c.49).

(**2**) Cmnd 7401. Amendments are published in Cmnd 8572, Cmnd 9037, Cm 1776, Cm 3042 and Cm 3135. A consolidated version of the Agreement, including all amendments, is available from http://www.unece.org/trans/doc/2006/sc1/ECE-TRANS-SC1-2006-02e.pdf.

(**3**) 1968 c.73. Section 97 was substituted by S.I. 1979/1746 and subsection (7) was further amended by S.I. 2005/1904, 2006/1117 and 2006/3276.

"the EC Regulation" means the Community Drivers Hours Regulation as defined in section 103(1) of the Transport Act 1968(**4**);

"fixed penalty offence" means an offence listed in Schedule 1; and

"graduated fixed penalty offence" means an offence listed in Schedule 2.

The appropriate amount

2.—(1) Subject to paragraph (2), the appropriate amount of a financial penalty deposit shall be—

(a) in relation to a fixed penalty offence for which a person has been given a fixed penalty notice or handed a conditional offer, the amount indicated in relation to that offence in the third column of Schedule 1;

(b) in relation to a graduated fixed penalty offence for which a person has been given a fixed penalty notice or handed a conditional offer, the amount indicated in relation to that offence in Schedule 2, by reference to [the circumstances of the offence, those being] the nature of the contravention and, where specified, its seriousness; and

(c) in relation to an offence for which a person has been given notification that it appears likely that proceedings will be brought against him, £300.

(2) The appropriate amount shall not, in respect of any single occasion on which more than one financial penalty deposit requirement has been imposed, exceed £900.

Signed by authority of the Secretary of State for Transport

Name
Parliamentary Under Secretary of State
Date
Department for Transport

(**4**) Section 103(1) was amended by S.I. 2007/1819; there are other amendments but none is relevant.

SCHEDULE 1 Article 2(1)(a)

Deposits for Fixed Penalty Offences

PART 1

Primary legislation

Table 1

Transport Act 1968

(1)Provision creating offence	*(2)General nature of offence*	*(3)Deposit*
1. Section 98(4)(**5**)	Contravention of regulations made under section 98 or any requirement as to books, records or documents of applicable Community rules	£200
2. Section 99(4)(**6**)	Failing to comply with requirements relating to inspection of records or obstructing an officer	£200
3. Section 99ZD(1)(**7**)	Failing to comply with requirements relating to inspection of recording equipment or records (whether electronic or hard copy) made by or stored on recording equipment	£200
4. Section 99C(**8**)	Failure to comply with prohibition or direction in relation to driving vehicle.	£200

Table 2

Road Traffic (Foreign Vehicles) Act 1972(9)

(1)Provision creating offence	*(2)General nature of offence*	*(3)Deposit*
1. Section 3(1)	Driving a foreign goods or foreign public service vehicle in contravention of a prohibition, etc.	£200

(**5**) 1968 c.73. Section 98(4) was first amended by paragraph 9(2) of Schedule 4 to the European Communities Act 1972 (c.68). It was subsequently amended by section 2(1) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c.3), sections 38 and 46 of the Criminal Justice Act 1982 (c.48) in respect of England and Wales, and by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c.21) (as inserted by section 54 of the Criminal Justice Act 1982) in respect of Scotland.

(**6**) Section 99(4) was amended by sections 38 and 46 of the Criminal Justice Act 1982 in respect of England and Wales, and by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (as inserted by section 54 of the Criminal Justice Act 1982) in respect of Scotland.

(**7**) Section 99ZD(1) was inserted by S.I. 2005/1904.

(**8**) Section 99C was inserted by section 266 of the Transport Act 2000 (c.38).

(**9**) **1972 c.27. Section 3(1) was amended, in relation to England and Wales, by sections 39(2) and 46 of, and Schedule 2 to, the Criminal Justice Act 1982, and, in relation to Scotland, by section 3 of and paragraph 10 of Schedule 1 and Part III of Schedule 2 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40).**

Table 3

Public Passenger Vehicles Act 1981(10)

(1)Provision creating offence	*(2)General nature of offence*	*(3)Deposit*
1. Section 12(5)	Using public service vehicle except under PSV operators' licence	£200

Table 4

Road Traffic Regulation Act 1984(11)

(1)Provision creating offence	*(2)General nature of offence*	*(3)Deposit*
1. Section 5(1)	Using a vehicle in contravention of a traffic regulation order outside Greater London	£30
2. Section 8(1)	Breach of traffic regulation order in Greater London	£30
3. Section 11(1)	Breach of experimental traffic order	£30
4. Section 16(1)	Using a vehicle in contravention of temporary prohibition or restriction of traffic in case of execution of works, etc.	£30, but £60 if committed in respect of a speed restriction
5. Section 17(4)	Wrongful use of special road	£30, but £60 if committed otherwise than by unlawfully stopping or allowing the vehicle to remain at rest on a part of a special road on which vehicles are in certain circumstances permitted to remain at rest
6. Section 18(3)	Using a vehicle in contravention of provision for one-way traffic on trunk road	£30
7. Section 20(5)	Driving a vehicle in contravention of order prohibiting or restricting driving vehicles on certain classes of roads	£30
8. Section 25(5)	Breach of pedestrian crossing regulations	£60
9. Section 88(7)	Contravention of minimum speed limit	£30
10. Section 89(1)	Exceeding speed limit	£60

(10) 1981 c.14. Section 12(5) was amended, in relation to England and Wales, by sections 38 and 46 of the Criminal Justice Act 1982 and, in relation to Scotland, by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (as inserted by section 54 of the Criminal Justice Act 1982).

(11) 1984 c.27. Section 11(1) was numbered as such by section 65(3) of the Road Traffic Act 1991 (c. 40).

Table 5

Road Traffic Act 1988(12)

(1)Provision creating offence	*(2)General nature of offence*	*(3)Deposit*
1. Section 14(3)	Breach of regulations requiring wearing of seat belts	£30
2. Section 15(2)(**13**)	Driving motor vehicle with child not wearing seat belt or with child in a rear-facing child restraint front seat with an active air bag	£30
3. Section 15(4)(**14**)	Driving motor vehicle with child in rear not wearing seat belt	£30
4. Section 16(4)	Driving or riding motor cycles in contravention of regulations requiring wearing of protective headgear	£30
5. Section 18(3)	Contravention of regulations with respect to use of head-worn appliances (eye protectors) on motor cycles	£30
6. Section 19(1)	Prohibition of parking of heavy commercial vehicles on verges, etc.	£30
7. Section 22(**15**)	Leaving vehicle in dangerous position	£60
8. Section 34(1)(**16**)	Driving mechanically propelled vehicles elsewhere than on roads	£30
9. Section 35(1)(**17**)	Failing to comply with traffic directions given by constable or traffic officer engaged in the regulation of traffic in a road	£30, but £60 if committed in respect of a motor vehicle by failure to comply with a direction of a constable, traffic officer or traffic warden
10. Section 35(2)(**18**)	Failing to comply with traffic directions given by constable or traffic officer where a traffic survey is being carried out	£60
11. Section 36(1)	Failing to comply with traffic signs	£30, but £60 if committed by failure to comply with an indication given by a sign specified in regulation 10(2) of the Traffic Signs Regulations

(**12**) **1988 c.52.**
(**13**) Section 15(2) was amended by S.I. 2006/1892.
(**14**) Section 15(4) was amended by S.I. 1992/3105.
(**15**) Section 22 was amended by paragraph 48 of Schedule 4 to the Road Traffic Act 1991.
(**16**) Section 34(1) was substituted by paragraph 5 of Schedule 7 to the Countryside and Rights of Way Act 2000 (c.37).
(**17**) Section 35(1) was amended by section 6(2)(a) of the Traffic Management Act 2004 (c.18).
(**18**) Section 35(2) was amended by section 6(2)(b) of the Traffic Management Act 2004.