

1993 No. 477

HEALTH AND SAFETY

AGRICULTURE

Agriculture (Tractor Cabs) Regulations (Northern Ireland) 1993

Made 9th December 1993

Coming into operation 1st February 1994

The Department of Agriculture, being the Department concerned(a), in exercise of the powers conferred on it by Articles 2(5), 17(1), (2), (4) and (5) and 55(2) of and paragraphs 1(1), 1(2), 1(3) and 14(1) of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978(b) and of every other power enabling it in that behalf, after consultation, in accordance with Article 46(1) of that Order, with the Health and Safety Agency for Northern Ireland and such other bodies as appear to the Department to be appropriate, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Agriculture (Tractor Cabs) Regulations (Northern Ireland) 1993 and shall come into operation on 1st February 1994.

Interpretation

2.—(1) In these Regulations—

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, forestry, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the preparation of land for agricultural use;

“approval mark” means one of the two marks incorporating a crown inside a triangle, illustrated in paragraph 1 of Part I of the Schedule and “appropriate approval mark” means—

(a) in relation to a safety cab fitted to a tractor which is or has been new on or after 1st February 1994 or in relation to a safety cab which itself is or has been new on or after 1st February 1994 the mark illustrated in paragraph 1(1) of Part I of the Schedule;

(b) in relation to any other safety cab, either approval mark;

“approved” in relation to a safety cab, means approved in accordance with regulation 4 for use with a tractor and any safety cab which is marked with a component type-approval mark in accordance with—

(a) See Article 2(2) of S.I. 1978/1039 (N.I. 9)

(b) S.I. 1978/1039 (N.I. 9)

- (a) Council Directive 77/536/EEC(a) relating to the roll-over protection structures of wheeled agricultural or forestry tractors, as amended by Council Directives 87/354/EEC(b) and 89/680/EEC(c);
- (b) Council Directive 79/622/EEC(d) relating to the static testing of the roll-over protection structures of wheeled agricultural or forestry tractors, as amended by Council Directive 87/354/EEC and as adapted to technical progress by Commission Directives 82/953/EEC(e) and 88/413/EEC(f);
- (c) Council Directive 86/298/EEC(g) relating to the rear-mounted roll-over protection structures of narrow-track wheeled agricultural and forestry tractors, as amended by Council Directive 89/682/EEC(h); or
- (d) Council Directive 87/402/EEC(i) relating to the roll-over protection structures mounted in front of the driver's seat on narrow-track wheeled agricultural and forestry tractors, as amended by Council Directive 89/681/EEC(j),

shall be deemed to be approved and correctly marked with the appropriate approval mark and supplementary marks in accordance with that regulation if it is fitted to and for use with a tractor of the type to which it was attached when tested pursuant to the relevant Directive specified above, and the driver-perceived noise level is within either of the limits specified in Article 2.1 of Council Directive 77/311/EEC(k) (relating to the driver-perceived noise level of wheeled agricultural or forestry tractors) when measured in accordance with the relevant Annex to that Directive;

“building” includes any underground premises;

“compulsory school age” has the meaning assigned to it by Article 46 of the Education and Libraries (Northern Ireland) Order 1986(l);

“the Department” means the Department of Agriculture;

“enclosed” in relation to a safety cab, means enclosed and secured in such a manner as to prevent a person who drives the tractor to which such safety cab is affixed from falling from that tractor in normal circumstances;

“manufacturer” includes a person who is authorised by a manufacturer to represent him;

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- (a) O.J. No. L220, 29.8.77, p. 1
 - (b) O.J. No. L192, 11.7.87, p. 43
 - (c) O.J. No. L398, 30.12.89, p. 26
 - (d) O.J. No. L179, 17.7.79, p. 1
 - (e) O.J. No. L386, 31.12.82, p. 31
 - (f) O.J. No. L200, 26.7.88, p. 32
 - (g) O.J. No. L186, 8.7.86, p. 26
 - (h) O.J. No. L398, 30.12.89, p. 29
 - (i) O.J. No. L220, 8.8.87, p. 1
 - (j) O.J. No. L398, 30.12.89, p. 27
 - (k) O.J. No. L105, 28.4.77, p. 1
 - (l) S.I. 1986/594 (N.I. 3); Article 46 was substituted by Article 156 of the Education Reform (Northern Ireland) Order 1989, S.I. 1989/2406 (N.I. 20)

“marked” means marked in the manner described in Part II of the Schedule;

“new” means not previously supplied to any person for use by him in agriculture;

“safety cab” means a rigid framework or cab designed to protect the driver of a tractor to which it is fitted from being crushed if the tractor overturns, and includes a safety frame;

“supplementary marks” means the marks described in paragraph 2 of Part I of the Schedule;

“tractor” means a wheeled tractor weighing 560 kilograms or more when assembled in the lightest form commercially available, without water, fuel or lubricating oil, but does not include a half-tracked vehicle or a steam traction engine.

(2) For the purposes of these Regulations a tractor or a safety cab which is made the subject of a contract for hire purchase shall be deemed to be sold and not let on hire or leased.

(3) A tractor is properly fitted with a safety cab for the purposes of these Regulations if the safety cab is—

(a) so maintained and so fitted to the tractor as to afford the protection (including protection from noise) for which it is designed, and

(b) equipped with an efficient automatic wiper for any windscreen it may have.

Meaning of “work” and “at work”

3. For the purposes of these Regulations and Parts I and II of the Health and Safety at Work (Northern Ireland) Order 1978 the meaning of the word “work” shall be extended to include the driving of a tractor in the course of agricultural operations or while it is travelling to or from the site of such operations and the meaning of “at work” shall be extended accordingly.

Approved safety cabs

4.—(1) Subject to the following provisions of this regulation, the Department may approve a safety cab of any model for use with a tractor of any description by issuing a certificate of approval to the manufacturer of the safety cab approving the use of safety cabs of that model when fitted to tractors of that description.

(2) Before issuing a certificate of approval the Department shall be satisfied that safety cabs of the model to which it relates would be capable of satisfying the requirements relating to protective cabs set out in Council Directive 77/536/EEC (as amended by Council Directive 87/354/EEC and 89/680/EEC), Council Directive 79/622/EEC (as amended by Council Directive 87/354/EEC and as adapted to technical progress by Commission Directives 82/953/EEC and 88/413/EEC), Council Directive 86/298/EEC (as amended by Council Directive 89/682/EEC), or Council Directive 87/402/EEC (as amended by Council Directive 89/681/EEC), when fitted to tractors of descriptions specified in the certificate.

(3) In the case of a certificate of approval issued on or after 1st February 1994 the Department shall further be satisfied, before issuing the certificate, that the noise levels inside safety cabs of the model to which it relates, when fitted to tractors of descriptions specified in the certificate, would be within either of the limits specified in Article 2.1 of Council Directive 77/311/EEC if measured in accordance with the relevant Annex to that Directive.

(4) Where a certificate of approval is issued for any model of safety cab in respect of which the Department has been satisfied as to the matters specified in paragraph (3), the fact of the Department's satisfaction as to such matters shall be stated in the certificate.

(5) While a safety cab is fitted to a tractor which is or has been new on or after 1st February 1994 or where a safety cab itself is, or has been new on or after 1st February 1994 (and in either case a certificate of approval in respect of that safety cab has not been issued before 1st February 1994), it shall not be an approved safety cab for the purpose of these Regulations unless the Department has been satisfied as to the matters specified in paragraph (3) in relation to safety cabs of that model, and the fact is stated in the certificate of approval.

(6) A certificate of approval may prescribe specifications for the construction of safety cabs of the model to which it relates, and unless a safety cab is constructed in accordance with any specifications so prescribed it shall not be a safety cab of that model.

(7) Such specifications may be prescribed by reference to documents other than the certificate of approval, by reference to specimens of safety cabs or materials, and in any other manner.

(8) An approved safety cab shall cease to be approved if it is materially changed as a result of damage, alteration, neglect or any other cause.

(9) The Department may at any time by notice in writing to the manufacturer, given not less than one month before it is due to take effect, amend or revoke a certificate of approval.

(10) It shall be a condition of every certificate of approval that the manufacturer to whom it is issued—

(a) shall cause every safety cab approved under the certificate to be marked with the correct approval mark and supplementary marks before it is sold, leased or let on hire; and

(b) shall on request, at any reasonable time before sale, whether during or after manufacture,

(i) make available for inspection by or on behalf of the Department any safety cab manufactured by him;

(ii) submit to such tests as the Department may require any safety cab which purports to be or is intended to be approved under the certificate.

(11) The Department shall not require a safety cab to be tested under paragraph (10) unless in its opinion there is reason to believe either that the safety cab is not a safety cab of the model to which the certificate relates or that it is not capable of satisfying the construction and testing requirements of

Council Directive 77/536/EEC (as amended by Council Directive 87/354/EEC and 89/680/EEC), Council Directive 79/622/EEC (as amended by Council Directive 87/354/EEC and as adapted to technical progress by Commission Directives 82/953/EEC and 88/413/EEC), Council Directive 86/298/EEC (as amended by Council Directive 89/682/EEC), or Council Directive 87/402/EEC (as amended by Council Directive 89/681/EEC).

(12) Where a manufacturer fails to comply with a condition of a certificate imposed on him by paragraph (10), the Department may by notice given to him in writing revoke the certificate forthwith.

(13) Amendment or revocation of a certificate of approval shall not affect any approved safety cab sold before the amendment or revocation takes effect.

(14) A safety cab which has been approved and marked in accordance with a certificate issued to a manufacturer by the Health and Safety Executive in Great Britain shall be deemed to be properly approved and marked for use in agriculture in Northern Ireland.

(15) Without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954(a) any certificate of approval issued under the Agriculture (Tractor Cabs) Regulations (Northern Ireland) 1981(b) and which is in force immediately before the coming into operation of these Regulations shall be deemed to have been issued under paragraph (1) and nothing in paragraphs (2), (3), (5) and (11) shall affect the validity of any such certificate.

Supply of tractors and safety cabs

5.—(1) A person shall not—

- (a) supply a new tractor to a person for use by him in agriculture in Northern Ireland unless that tractor is properly fitted with a safety cab which is—
 - (i) approved for use with that tractor;
 - (ii) marked with the appropriate approval mark; and
 - (iii) marked with supplementary marks which relate to that approval mark and which include the name of the make, and the name or number of the model, of that tractor;
- (b) supply a new safety cab for use in agriculture in Northern Ireland unless it is—
 - (i) approved; and
 - (ii) marked with the appropriate approval mark and supplementary marks;
- (c) let on hire or lease a tractor for use in agriculture in Northern Ireland unless it is properly fitted with a safety cab marked with the appropriate approval mark.

(a) 1954 c. 33 (N.I.)

(b) S.R. 1981 No. 5 as amended by S.R. 1987 No. 376

(2) Where a person (“the ostensible supplier”) supplies any new tractor or safety cab for use in agriculture in Northern Ireland to another (“the customer”) under a hire-purchase agreement, conditional sale agreement or credit sale agreement, and the ostensible supplier:—

- (a) carries on the business of financing the acquisition of goods by others by means of such agreements; and
- (b) in the course of that business acquired his interest in the tractor or safety cab supplied to the customer as a means of financing its acquisition by the customer from a third person (“the effective supplier”);

the effective supplier and not the ostensible supplier shall be treated for the purpose of this regulation as supplying the tractor or safety cab to the customer and any duty imposed by these Regulations on those who supply a new tractor or safety cab shall accordingly fall on the effective supplier and not on the ostensible supplier.

(3) Where a person (“the ostensible supplier”) supplies a tractor or safety cab for use in agriculture in Northern Ireland to another (“the customer”) under a lease, and the ostensible supplier:—

- (a) has not previously granted any lease to the customer in respect of that tractor or safety cab; and
- (b) carries on the business of financing the use of goods by others by means of leases; and
- (c) in the course of that business acquired his interest in the tractor or safety cab supplied to the customer for the purpose of financing its provision to the customer by a third person (“the effective supplier”); and
- (d) he or his agent either—
 - (i) has not had physical possession of the tractor or safety cab; or
 - (ii) has had physical possession of the tractor or safety cab only for the purpose of passing it to the customer; and
- (e) he or his agent has not modified, overhauled, repaired or restored the tractor or safety cab;

then the effective supplier and not the ostensible supplier shall be treated for the purposes of this regulation as supplying the tractor or safety cab to the customer and any duty imposed by these Regulations on those who supply a tractor or safety cab shall accordingly fall on the effective supplier and not on the ostensible supplier.

(4) Where—

- (a) paragraph (3) has applied in respect of a lease; and
- (b) the ostensible supplier grants a further lease of the tractor or safety cab to the same customer; and
- (c) the tractor or safety cab has remained in the physical possession of the customer since he took possession of it under the first lease; and

- (d) the tractor or safety cab has not at any time been modified, overhauled, repaired or restored by or on behalf of the ostensible supplier;

then no duty shall be imposed by these Regulations on the ostensible supplier in relation to the supply by way of that further lease.

Obligations on employers, employees and others

6.—(1) The employer of an employee employed in agriculture shall ensure—

- (a) that every tractor driven by that employee in the course of his employment is properly fitted with a safety cab marked with the appropriate approval mark; and
- (b) so far as it is reasonably practicable for him to do so, that every safety cab fitted to a tractor so driven by that employee is approved for use with that tractor.

(2) An employee employed in agriculture shall not drive a tractor in the course of his employment, and a person shall not cause or permit him to do so, unless that tractor is properly fitted with a safety cab marked with the appropriate approval mark.

(3) An employee employed in agriculture shall not drive a tractor in the course of his employment if it is fitted with a safety cab which he knows is not approved for use with that tractor, and a person shall not cause or permit such an employee to drive a tractor in the course of his employment if it is fitted with a safety cab which that person knows is not approved for use with that tractor.

(4) A person who has attained the age of thirteen years but has not attained the upper limit of compulsory school age shall not drive a tractor in the course of agricultural operations or while it is travelling to or from the site of such operations, and a person shall not cause or permit him to do so, unless the tractor is properly fitted with an enclosed approved safety cab.

(5) Subject to paragraphs (1), (2), (3) and (4) and regulation 4 of the Agriculture (Safety of Children) Regulations (Northern Ireland) 1981(a) a person shall not drive a tractor in the course of agricultural operations or while it is travelling to or from the site of such operations unless it is properly fitted with a safety cab marked with the appropriate approval mark.

(6) Nothing in this regulation shall apply to a tractor—

- (a) while it is being used for the purpose of carrying out an agricultural operation in an orchard where it is not reasonably practicable to use the tractor for the purpose if it is fitted with a safety cab approved for use with that tractor;
- (b) while it is being driven to or from an orchard for the purpose of or after being used there without an approved safety cab in compliance with sub-paragraph (a);

(a) S.R. 1981 No. 6 as amended by S.R. 1983 No. 355

- (c) while it is being used inside, or in close proximity to, a building for the purpose of carrying out an agricultural operation involving its use inside that building, where it is not reasonably practicable by reason of the height, shape or construction of the building to use the tractor for the purpose if it is fitted with a safety cab approved for use with that tractor; or
- (d) while it is being driven to or from any building for the purpose of or after being used there without an approved safety cab in compliance with sub-paragraph (c) unless the tractor is at the same time engaged in, or being driven from or to the site of, any agricultural operation for which such a safety cab is required by this regulation.

Obligation on employees to report overturning or damage

7. Every employee employed in agriculture to drive or maintain a tractor fitted with a safety cab marked with the approval mark shall forthwith report to his employer—

- (a) any occasion when the tractor overturns;
- (b) any damage caused to the safety cab or to the fittings which secure it to the tractor; or
- (c) any defect in the windscreen wiper if one is fitted.

Restrictions on marking of safety cabs

8.—(1) A person other than the manufacturer of a safety cab shall not, without the consent of the Department in writing, apply to it any mark calculated to suggest—

- (a) that the safety cab is approved;
- (b) that the safety cab is approved for use with a tractor of a specified description; or
- (c) that the safety cab has been approved as being of a particular standard; whether the safety cab is so approved or not.

(2) Subject to the provisions of paragraph (3), a person shall not apply to a safety cab any mark which is calculated falsely to suggest—

- (a) that the safety cab is approved;
- (b) that the safety cab is approved for use with a tractor of a specified description; or
- (c) that the safety cab has been approved as being of a particular standard.

(3) The application of a mark to a safety cab by its manufacturer before the time when it is first sold, let on hire or leased shall not give rise to a contravention of paragraph (2) unless the mark remains on the safety cab until that time, in which case the manufacturer shall be deemed for the purposes of that paragraph to have applied the mark to the safety cab at that time.

(4) A person other than the manufacturer of a safety cab shall not, without the consent of the Department in writing, alter, remove, obliterate or deface any mark on that safety cab which is or purports to be a mark required by these Regulations.

(5) For the purpose of this regulation a person applies a mark to a safety cab if he affixes or annexes it to, or in any manner marks it on or incorporates it with, the safety cab.

Certificates of exemption

9.—(1) Notwithstanding anything in these Regulations, the Department may grant certificates exempting, for such periods and subject to such conditions, if any, as may be specified therein, particular cases or particular persons from the operation of all or any of the provisions of these Regulations.

(2) Any breach of a condition imposed by such a certificate of exemption shall, while it continues, render the certificate void in relation to any tractor or safety cab affected by the breach.

Revocation

10. The Agriculture (Tractor Cabs) Regulations (Northern Ireland) 1981(a) and the Agriculture (Tractor Cabs) (Amendment) Regulations (Northern Ireland) 1987(b) are hereby revoked.

Sealed with the Official Seal of the Department of Agriculture on 9th December 1993.

(L.S.)

I. C. Henderson

Assistant Secretary

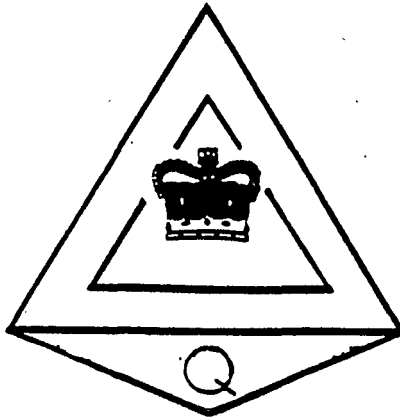
(a) S.R. 1981 No. 5

(b) S.R. 1987 No. 376

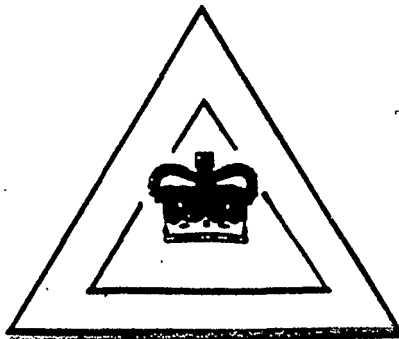
PART I

MARKS ON SAFETY CABS

1.—(1) Where the Department has been satisfied, before issuing a certificate of approval, that the noise levels inside safety cabs of the model to which such certificate relates, when fitted to tractors of descriptions specified in the certificate, would be within either of the limits specified in Article 2.1 of Council Directive 77/311/EEC if measured in accordance with the relevant Annex to that Directive, the approval mark on an approved safety cab of that model shall be the following symbol:



(2) In any other case the approval mark on an approved safety cab shall be the following symbol:



2. The supplementary marks on a safety cab shall be—

- (a) the name of the make, and the name or number of the model, of every tractor for use with which the safety cab is approved at the time of marking; and
- (b) the serial number of the cab.

PART II

MANNER IN WHICH SAFETY CABS ARE TO BE MARKED

Safety cabs shall be marked in the following manner:—

- (a) every mark required by these Regulations shall be on the main structure of the safety cab;
- (b) every such mark shall be clear, legible and permanent and shall be displayed in a prominent and easily accessible position;
- (c) the name of the make or model of a tractor may be represented by a recognisable abbreviation of that name;
- (d) where a model of a tractor is referred to, it shall be described in such a way as not to include any tractor for use with which the safety cab is not approved;
- (e) supplementary marks relating to the same approval mark shall be as near as is reasonably practicable to the approval mark and to each other;
- (f) where there is more than one approval mark on a safety cab the supplementary marks relating to each shall be separate and clearly distinguishable from those relating to the other.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations consolidate with amendments the Agriculture (Tractor Cabs) Regulations (Northern Ireland) 1981, S.R. 1981 No. 5, and the Agriculture (Tractor Cabs) (Amendment) Regulations (Northern Ireland) 1987, S.R. 1987 No. 376. In addition to minor and drafting amendments they make the following changes of substance:—

1. any safety cab which is marked with a component type-approval mark in accordance with—

- (a) Council Directive 77/536/EEC (O.J. No. L220, 29.8.77, p. 1) relating to the roll-over protection structures of certain wheeled agricultural or forestry tractors, as amended by Council Directives 87/354/EEC (O.J. No. L192, 11.7.87, p. 43) and 89/680/EEC (O.J. No. L398, 30.12.89, p. 26);
- (b) Council Directive 79/622/EEC (O.J. No. L179, 17.7.79, p. 1) relating to the static testing of roll-over protection structures of certain wheeled agricultural or forestry tractors, as amended by Council Directive 87/354/EEC and as adapted to technical progress by Commission Directives 82/953/EEC (O.J. No. L386, 31.12.82, p. 31) and 88/413/EEC (O.J. No. L220, 26.7.88, p. 32);
- (c) Council Directive 86/298/EEC (O.J. No. L186, 8.7.86, p. 26) relating to the rear-mounted roll-over protection structures of narrow-track wheeled agricultural and forestry tractors as amended by Council Directive 89/682/EEC (O.J. No. L398, 30.12.89, p. 29); or
- (d) Council Directive 87/402/EEC (O.J. No. L220, 8.8.87, p. 1) relating to the roll-over protection structures mounted in front of the driver's seat on narrow-track wheeled agricultural and forestry tractors, as amended by Council Directive 89/681/EEC (O.J. No. L398, 30.12.89, p. 27)

shall be deemed to be approved and correctly marked in accordance with regulation 4 if it is fitted to and for use with a tractor of the type to which it was attached when tested pursuant to the relevant Directive specified above and the driver-perceived noise level is within either of the limits specified in Article 2.1 of Council Directive 77/311/EEC (O.J. No. L105, 28.4.77, p. 1) (relating to the driver-perceived noise level of wheeled agricultural or forestry tractors) when measured in accordance with the relevant Annex to that Directive (regulation 2(1));

2. non-EEC type-approved safety cabs can be approved only if:—

- (a) the noise levels inside such cabs would be within either of the limits specified in Article 2.1 of Council Directive 77/311/EEC if measured in accordance with the relevant Annex to that Directive (regulation 4(3)), and
- (b) they would be capable of satisfying the construction and testing requirements of any of the Council Directives specified in paragraph 1(a) to (d) above (regulation 4(2));

3. new safety cabs and safety cabs fitted to new tractors are not approved for the purposes of these Regulations unless the Department of Agriculture has been satisfied that the noise levels inside the safety cabs would be within either of the limits specified in Article 2.1 of Council Directive 77/311/EEC and that fact is stated in the certificate of approval — this does not apply where a certificate of approval in respect of a safety cab has been issued before 1st February 1994 (regulation 4(5));

4. for the purposes of these Regulations and Parts I and II of the Health and Safety at Work (Northern Ireland) Order 1978 the meaning of the word “work” is extended to include the driving of a tractor in the course of agricultural operations or while it is travelling to or from the site of such operations (regulation 3);

5. provision is made to protect persons and financial institutions which finance the acquisition of tractors and safety cabs by means of hire-purchase, conditional sale, credit sale and leasing agreements (regulation 5(2) to (4));

6. provision in the 1981 Regulations relating to hearing protectors has been omitted;

7. the provision requiring the use of an enclosed (as defined) safety cab for persons between the ages of 13 years and 16 years is extended to persons above 16 who are below the upper limit of compulsory school age (regulation 6(4));

8. provision is made that a person other than an employee shall not drive a tractor in the course of agricultural operations unless it is properly fitted with a safety cab marked with the appropriate approval mark — formerly this provision required the fitting of an approved safety cab (regulation 6(5)).

The Regulations contain a saving provision for certificates of approval issued under the 1981 Regulations (regulation 4(15)).

Any person who contravenes any provision of these Regulations is guilty of an offence and is liable, on summary conviction, to a fine not exceeding £2,000 or, on conviction on indictment, to a fine.