

SCHEDULES

SCHEDULE I

Supplementary Provisions in connection with Proceedings for Offences under Articles 16, 28 and 29(4)

3.—(1) Subject to the provisions of this paragraph, in any proceedings for an offence under Article 26, it shall be a defence for the accused to prove—

- (a) if the offence is under paragraph (3)(a) of that Article—
 - (i) that he purchased the equipment in question as being of a type which could be lawfully sold or offered or exposed for sale as conducive to the safety in the event of accident of prescribed classes of children in prescribed classes of motor vehicles and with a written warranty to that effect;
 - (ii) that he had no reason to believe at the time of the commission of the alleged offence that it was not of such a type; and
 - (iii) That it was then in the same state as when he purchased it;
- (b) if the offence is under paragraph (3)(b) of that Article, he provided information in relation to the equipment and it is alleged that it did not include appropriate information or included or consisted of inappropriate information—
 - (i) that the information provided by him was information which had been provided to him with a written warranty to the effect that it was the information required to be provided by him under Article 26; and
 - (ii) that he had no reason to believe at the time of the commission of the alleged offence that the information provided by him was not the information required to be provided under that paragraph; or
- (c) if the offence is under paragraph (3)(b) of that Article, he provided information in relation to the equipment and it is alleged that it was not provided in the manner required under that Article—
 - (i) that the information provided by him had been provided to him either with a written warranty to the effect that it was provided to him in the manner in which it was required to be provided by him under that Article or with instructions as to the manner in which the information should be provided by him and with a written warranty to the effect that provision in that manner would comply with regulations under that Article;
 - (ii) that he had no reason to believe at the time of the commission of the alleged offence that he was not providing the information in the manner required under that Article; and
 - (iii) that the information was then in the same state as when it was provided to him or, as the case may be, that it was provided by him in accordance with the instructions given to him.

(2) Subject to the provisions of this paragraph, in any proceedings for an offence under Article 28 or 29(4) it shall be a defence for the accused to prove—

Status: This is the original version (as it was originally made).

- (a) that he purchased the helmet or appliance in question as being of a type which—
 - (i) in the case of Article 28, could be lawfully sold or offered or exposed for sale under that Article; and
 - (ii) in the case of Article 29(4), could be lawfully sold or offered or exposed for sale under Article 29 as authorised for use in the manner in question, and with a written warranty to that effect; and
 - (b) that he had no reason to believe at the time of the commission of the alleged offence that it was not of such a type; and
 - (c) that it was then in the same state as when he purchased it.
- (3) A warranty shall only be a defence in any such proceedings if—
- (a) the accused—
 - (i) has, not later than 7 days before the date of the hearing, sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it; and
 - (ii) has also sent a like notice of his intention to that person; and
 - (b) in the case of a warranty given by a person resident outside Northern Ireland, the accused proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained in the warranty.
- (4) Where the accused is a servant of the person who purchased the equipment, helmet or appliance in question under a warranty, or to whom the information in question was provided under a warranty, he shall be entitled to rely on the provisions of this paragraph in the same way as his employer would have been entitled to do if he had been the accused.
- (5) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.