

SCHEDULES

SCHEDULE 1

Article 13

PROHIBITION ON DRIVING: IMMOBILISATION, REMOVAL AND DISPOSAL OF VEHICLES

Cases to which regulations may apply

1.—(1) The Department may make regulations with respect to any case where, on or after such date as may be prescribed, the driving of a vehicle has been prohibited under—

- (a) Article 84 of the Order of 1981 (foreign vehicles);
 - (b) Article 77 or 79 of the Order of 1995 (unfit or overloaded vehicles); or
 - (c) Article 91E of the Offenders Order (failure to make payment of financial penalty deposit);
- (2) Regulations under this Schedule are subject to negative resolution.

Immobilisation

2.—(1) The regulations may provide that an authorised person or a person acting under his direction may—

- (a) fix an immobilisation device to the vehicle, and
- (b) move the vehicle, or direct it to be moved, for the purpose of enabling an immobilisation device to be fitted it.

(2) The regulations may provide that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations the person fixing the device must also fix to the vehicle a notice—

- (a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device,
- (b) specifying the steps to be taken to secure its release, and
- (c) giving such other information as may be prescribed.

(3) The regulations may provide that a vehicle to which an immobilisation device has been fixed in accordance with the regulations—

- (a) may only be released from the device by or under the direction of an authorised person, but
- (b) subject to that, must be released from the device if the first and second requirements specified below are met.

(4) The first requirement is that such charge in respect of the release as may be prescribed is paid in any manner specified in the immobilisation notice.

(5) The second requirement is that, in accordance with instructions specified in the immobilisation notice, there is produced such evidence as may be prescribed establishing that the prohibition has been removed.

- (6) The regulations may provide that they do not apply in relation to a vehicle if—

- (a) a current disabled person's badge is displayed on the vehicle, or
- (b) such other conditions as may be prescribed are fulfilled,

and "disabled person's badge" means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 44) or a recognised badge within the meaning given by section 14A of that Act.

(7) The regulations may provide that an immobilisation notice is not to be removed or interfered with except by or on the authority of a person falling within a prescribed description.

Offences connected with immobilisation, etc.

3.—(1) The regulations may provide that a person who fails to comply within a reasonable time with a direction under provision made under paragraph 2(1)(b) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) The regulations may provide that a person contravening provision made under paragraph 2(7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) The regulations may provide that a person who, without being authorised to do so in accordance with provision made under paragraph 2, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) The regulations may provide that where they would otherwise have applied in relation to a vehicle but for provision made under paragraph 2(6)(a) and the vehicle was not, at the time at which they would otherwise have applied, being used—

- (a) in accordance with regulations under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 44), and
- (b) in circumstances falling within section 14B(1)(b) of that Act (use where a disabled person's concession would be available),

the person in charge of the vehicle at that time is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) The regulations may provide that where—

- (a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations,
- (b) the declaration is that the prohibition has been removed, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

(6) The regulations may provide that a person guilty of an offence for which provision is made under sub-paragraph (5) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

Removal and disposal of vehicles

4.—(1) The regulations may provide that where such conditions as may be prescribed are fulfilled an authorised person, or a person acting under his direction, may remove the vehicle or direct it to be removed.

(2) The regulations may provide that where such conditions as may be prescribed are fulfilled an authorised person, or a person acting under his direction, may deliver the vehicle, or direct it to be delivered, into the custody of a person—

- (a) who is identified in accordance with prescribed rules, and
- (b) who agrees to accept delivery in accordance with arrangements agreed between that person and the Department,

and the arrangements may include provision as to the payment of a sum to the person into whose custody the vehicle is delivered.

(3) The regulations may make provision for such persons as may be prescribed to be informed that a vehicle has been removed and delivered into a person's custody and may, in particular, include provision requiring—

- (a) the publication by an authorised person of such notices as may be prescribed, and
- (b) the giving of notice by an authorised person to such persons as may be prescribed.

(4) The regulations may provide that the person into whose custody the vehicle is delivered may dispose of it, and may in particular make provision as to—

- (a) the time at which the vehicle may be disposed of, and
- (b) the manner in which it may be disposed of.

(5) The regulations may make provision allowing a person to take possession of the vehicle if—

- (a) he claims it before it is disposed of, and
- (b) any prescribed conditions are fulfilled.

(6) The regulations may provide for a sum of an amount arrived at under prescribed rules to be paid to a person if—

- (a) he claims after the vehicle's disposal to be or to have been its owner or to have been the person in charge of the vehicle when it was removed,
- (b) the claim is made within a prescribed time of the disposal, and
- (c) any other prescribed conditions are fulfilled.

(7) The regulations may provide that (whether or not a claim is made under provision made under sub-paragraph (5) or (6))—

- (a) the Department, or
- (b) a person into whose custody the vehicle is delivered under the regulations,

may recover from the vehicle's owner or the person in charge of the vehicle such charges as may be prescribed in respect of all or any of its release, removal, custody and disposal.

(8) In sub-paragraph (7) "person in charge" and "owner", in relation to a vehicle, means the person who was in charge of the vehicle or was the vehicle's owner when it was removed.

(9) The conditions prescribed under sub-paragraph (5) may include conditions as to—

- (a) satisfying the person with custody that the claimant is the vehicle's owner or was the person in charge of the vehicle when it was removed,
- (b) the payment of prescribed charges in respect of the vehicle's release, removal and custody, and

- (c) the production of such evidence as may be prescribed establishing that the prohibition has been removed.

(10) The regulations may in particular include provision for purposes corresponding to those of Articles 51 to 54 of the [Road Traffic Regulation \(Northern Ireland\) Order 1997 \(NI 2\)](#) (disposal and charges) subject to such additions, omissions or other modifications as the Department thinks fit.

Offences as to securing possession of vehicles

5.—(1) The regulations may provide that a person who fails to comply within a reasonable time with a direction under provision made under subparagraph (1) or (2) of paragraph 4 is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) The regulations may provide that where—

- (a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of a person in accordance with provision made under paragraph 4,
- (b) the declaration is that the prohibition has been removed, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

(3) The regulations may provide that a person guilty of an offence for which provision is made under sub-paragraph (2) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

Disputes

6. The regulations may make provision about the proceedings to be followed where a dispute occurs as a result of the regulations, and may in particular make provision—

- (a) for an application to be made to a court of summary jurisdiction, or
- (b) for a court to order a sum to be paid by the Department.

Authorised persons

7. As regards anything falling to be done under the regulations (such as receiving payment of a charge or other sum) the regulations may provide that it may be done—

- (a) by an authorised person, or
- (b) by an authorised person or a person acting under his direction.

Application of Offenders Order

8. The regulations may make provision for the application of any or all of Articles 5, 10, 14 and 15(1) of the Offenders Order to an offence for which provision is made by the regulations.

Interpretation

9. References in this Schedule to a vehicle include references to any trailer drawn by the vehicle.

10.—(1) This paragraph makes provision about the meaning of “authorised person” for the purposes of this Schedule.

(2) Where the driving of the vehicle has been prohibited under Article 84 of the Order of 1981 “authorised person” means an authorised officer within the meaning of Part VII of the Order of 1981.

(3) Where the driving of the vehicle has been prohibited under Article 77 of the Order of 1995 “authorised person” means a vehicle examiner (within the meaning of Part III of that Order).

(4) Where the driving of the vehicle has been prohibited under Article 79 of the Order of 1995 “authorised person” means—

- (a) a vehicle examiner (within the meaning of Part III of that Order); or
- (b) a constable authorised to act for the purposes of paragraph (1) of that Order by or on behalf of the Chief Constable.

(5) Where the driving of the vehicle has been prohibited under Article 91E of the Offenders Order, “authorised person” means—

- (a) a vehicle examiner (within the meaning of Part III of that Order); or
- (b) a constable.

11. In this Schedule—

- (a) references to an immobilisation device are to a device or appliance which is—
 - (i) designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion; and
 - (ii) of a type approved by the Department for use for that purpose; and
- (b) references to an immobilisation notice are to a notice fixed to a vehicle in accordance with the regulations.

12. In this Schedule “prescribed” means prescribed by the regulations.

13.—(1) The regulations may make provision as to the meaning for the purposes of the regulations of “owner” as regards a vehicle.

(2) In particular, the regulations may provide that for the purposes of the regulations the owner of a vehicle is taken to be the person in whose name it is then registered under the Vehicle Excise and Registration Act 1994 (c. 22).