

SCHEDULES

SCHEDULE 1

Sections 17 and 18.

SUPPLEMENTARY PROVISIONS IN CONNECTION WITH PROCEEDINGS FOR OFFENCES UNDER SECTIONS 17 AND 18(4)

Proceedings in England and Wales

- 1 (1) A person against whom proceedings are brought in England and Wales for an offence under section 17 or 18(4) of this Act is, upon information duly laid by him and on giving the prosecution not less than three clear days' notice of his intention, entitled to have any person to whose act or default he alleges that the contravention of that section was due brought before the court in the proceedings.
- (2) If, after the contravention has been proved, the original accused proves that the contravention was due to the act or default of that other person—
- (a) that other person may be convicted of the offence, and
 - (b) if the original accused further proves that he has used all due diligence to secure that section 17 or, as the case may be, 18(4) was complied with, he shall be acquitted of the offence.
- (3) Where an accused seeks to avail himself of the provisions of sub-paragraphs (1) and (2) above—
- (a) the prosecution, as well as the person whom the accused charges with the offence, has the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence, and
 - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party to the proceedings.
- 2 (1) Where—
- (a) it appears that an offence under section 17 or 18(4) of this Act has been committed in respect of which proceedings might be taken in England and Wales against some person (referred to below in this paragraph as “the original offender”), and
 - (b) a person proposing to take proceedings in respect of the offence is reasonably satisfied—
 - (i) that the offence of which complaint is made was due to an act or default of some other person, being an act or default which took place in England and Wales, and
 - (ii) that the original offender could establish a defence under paragraph 1 of this Schedule,the proceedings may be taken against that other person without proceedings first being taken against the original offender.

Status: This is the original version (as it was originally enacted).

- (2) In any such proceedings the accused may be charged with, and on proof that the contravention was due to his act or default be convicted of, the offence with which the original offender might have been charged.
- 3 (1) Where proceedings are brought in England and Wales against a person (referred to below in this paragraph as “the accused”) in respect of a contravention of section 17 or 18(4) of this Act and it is proved—
- (a) that the contravention was due to the act or default of some other person, being an act or default which took place in Scotland, and
 - (b) that the accused used all due diligence to secure compliance with that section, the accused shall, subject to the provisions of this paragraph, be acquitted of the offence.
- (2) The accused is not entitled to be acquitted under this paragraph unless within seven days from the date of the service of the summons on him—
- (a) he has given notice in writing to the prosecution of his intention to rely upon the provisions of this paragraph, specifying the name and address of the person to whose act or default he alleges that the contravention was due, and
 - (b) he has sent a like notice to that person.
- (3) The person specified in a notice served under this paragraph is 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.
- (4) Where it is proved that the contravention of section 17 or 18(4) of this Act was due to the act or default of some person other than the accused, being an act or default which took place in Scotland, the court must (whether or not the accused is acquitted) cause notice of the proceedings to be sent to the Secretary of State.

Proceedings in Scotland

- 4 (1) Where a contravention of section 17 or 18(4) of this Act committed by a person in Scotland (referred to in this sub-paragraph as “the original offender”) was due to the act or default of any other person, being an act or default which took place in Scotland then, whether or not proceedings are taken against the original offender, that other person may be charged with and convicted of the contravention and shall be liable on conviction to the same punishment as might have been inflicted on the original offender if he had been convicted of the contravention.
- (2) Where a person (referred to in this sub-paragraph as “the accused”) who is charged in Scotland with a contravention of section 17 or 18(4) of this Act proves to the satisfaction of the court—
- (a) that he used all due diligence to secure that the provision in question was complied with, and
 - (b) that the contravention was due to the act or default of some other person, the accused shall be acquitted of the contravention.

Proceedings in Great Britain

- 5 (1) Subject to the provisions of this paragraph, in any proceedings (whether in England and Wales or Scotland) for an offence under section 17 or 18(4) of this Act it shall be a defence for the accused to prove—

-
- (a) that he purchased the helmet or appliance in question as being of a type which—
- (i) in the case of section 17, could be lawfully sold or offered for sale under that section, and
 - (ii) in the case of section 18(4), could be lawfully sold or offered for sale under section 18 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.
- (2) A warranty is only a defence in any such proceedings if—
- (a) the accused—
 - (i) has, not later than three clear 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 outside the United Kingdom, 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.
- (3) Where the accused is a servant of the person who purchased the helmet or appliance in question under a warranty, he is 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.
- (4) The person by whom the warranty is alleged to have been given is 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.
- 6 (1) An accused who in any proceedings for an offence under section 17 or 18(4) of this Act wilfully applies to a helmet or, as the case may be, appliance a warranty not given in relation to that helmet or appliance is guilty of an offence.
- (2) A person who, in respect of a helmet or appliance sold by him, being a helmet or appliance in respect of which a warranty might be pleaded under paragraph 5 of this Schedule, gives to the purchaser a false warranty in writing, is guilty of an offence, unless he proves that when he gave the warranty he had reason to believe that the statements or description contained in it were accurate.
- (3) Where the accused in a prosecution for an offence under section 17 or 18 (4) of this Act relies successfully on a warranty given to him or his employer, any proceedings under sub-paragraph (2) above in respect of the warranty may, at the option of the prosecutor, be taken either—
- (a) before a court having jurisdiction in the place where the helmet or appliance, or any of the helmets or appliances, to which the warranty relates was procured, or
 - (b) before a court having jurisdiction in the place where the warranty was given.
- 7 In this Schedule, “appliance” means an appliance to which section 18 of this Act applies.

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

SCHEDULE 2

Section 67.

DEFERRED TESTS OF CONDITION OF VEHICLES

- 1 Where the driver is the owner of the vehicle, he may at the time of electing that the test shall be deferred—
- (a) specify a period of seven days within which the deferred test is to take place, being a period falling within the next thirty days, disregarding any day on which the vehicle is outside Great Britain, and
 - (b) require that the deferred test shall take place on premises then specified by him where the test can conveniently be carried out or that it shall take place in such area in England and Wales, being a county district or Greater London, or such area in Scotland, being an islands area or district, as he may specify at that time.
- 2 When the driver is not the owner of the vehicle he shall inform the examiner of the name and address of the owner of the vehicle and the owner shall be afforded an opportunity of specifying such a period, and such premises or area.
- 3 (1) Where under the preceding provisions of this Schedule a period has been specified within which the deferred test is to be carried out, the time for carrying it out shall be such time within that period as may be notified, being a time not earlier than two days after the giving of the notification.
- (2) Where no such period has been specified, the time for the carrying out of the deferred test shall be such time as may be notified, being a time not earlier than seven days after the giving of the notification.
- (3) Where premises have been specified under the preceding provisions of this Schedule for the carrying out of the deferred test, and the test can conveniently be carried out on those premises, it must be carried out there.
- (4) Where sub-paragraph (3) above does not apply, the place for carrying out the deferred test shall be such place as may be notified with the notification of the time for the carrying out of the test, and where an area has been so specified the place shall be a place in that area.
- (5) Notwithstanding the preceding provisions of this paragraph, the time and place for the carrying out of the deferred test may be varied by agreement between an authorised examiner and the owner of the vehicle.
- (6) In this paragraph—
“notified” means notified in writing to the owner of the vehicle on behalf of the Secretary of State, and
“notification” shall be construed accordingly,
and any notification under this paragraph may be given by post.
- 4 The owner of the vehicle must produce it, or secure its production, at the time and place fixed for the carrying out of the deferred test.
- 5 (1) References in this Schedule to the owner of a vehicle are references to the owner of the vehicle at the time at which the election is made under section 67(6) of this Act that the test should be deferred.
- (2) For the purposes of this Schedule—

- (a) subject to sub-paragraph (b) below, if at the time at which that election is made the vehicle is in the possession of a person under a hire-purchase agreement or hiring agreement, that person shall be deemed to be the owner of the vehicle to the exclusion of any other person,
- (b) if at that time the vehicle is being used under an international circulation permit, the person to whom the permit was issued shall be deemed to be the owner of the vehicle to the exclusion of any other person.

SCHEDULE 3

Section 131.

APPEALS UNDER SECTION 131 AGAINST DECISIONS OF THE REGISTRAR

- 1 On an appeal under section 131 of this Act, the Registrar shall be made respondent.
- 2 (1) The Secretary of State shall refer every such appeal to a person, or two or three persons, appointed by him to hold an inquiry and report to him.
- (2) The person or persons so appointed may be appointed either for the purposes of one particular inquiry, or of inquiries into any such appeal that may be made to the Secretary of State during such period as the Secretary of State may determine.
- (3) No person so appointed shall be an officer of the Secretary of State.
- (4) The Secretary of State may, for the purpose of any such inquiry, appoint up to three assessors to advise the person or persons holding it on matters arising out of it.
- (5) The Secretary of State shall, before making an order under section 131 of this Act, consider any report made to him under this paragraph.
- (6) The Secretary of State shall pay to any person or persons holding inquiries under this paragraph and to any assessors appointed under this paragraph such fees and such expenses, if any, incurred by them as he may, with the approval of the Treasury, determine.
- 3 (1) The Secretary of State may by rules made by statutory instrument make provision as to the procedure on an appeal under section 131 of this Act.
- (2) In particular, but without prejudice to the generality of sub-paragraph (1) above, the rules may make provision—
- (a) prescribing the form and contents of the notice of appeal,
 - (b) enabling the party to an appeal to appear at an inquiry held under this Schedule by counsel or a solicitor or any person of such other description, if any, as may be specified by the rules,
 - (c) requiring proceedings on any such inquiry to be held in public, except in so far as may otherwise be provided by the rules,
 - (d) defining the functions of any assessors appointed by the Secretary of State.
- 4 (1) The Secretary of State may on an appeal under section 131 of this Act—
- (a) order the appellant to pay the whole or part of the costs incurred by the Secretary of State in connection with the appeal, or
 - (b) direct that the whole or part of the costs of the appellant incurred in connection with the appeal shall be treated as part of the administrative expenses of the Secretary of State.

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

- (2) The Secretary of State may certify the amount of any such costs, and any amount so certified and ordered to be paid by the appellants shall be recoverable from him.
- 5 Section 180 of this Act, in its application to an inquiry caused by the Secretary of State to be held under paragraph 2 above, shall have effect as if subsection (1)(d) were omitted.

SCHEDULE 4

Section 193.

PROVISIONS NOT APPLICABLE TO TRAMCARS, ETC.

- 1 Sections 12, 25, 26 and 127 of this Act do not apply to tramcars or trolley vehicles operated under statutory powers.
- 2 Sections 2, 3, 4(1) and 181 of this Act do not apply to tramcars operated under statutory powers.
- 3 The provisions of sections 41, 42, 47, 48, 66 and 75 of this Act and any order or regulations made under those provisions do not apply to tramcars or trolley vehicles operated under statutory powers.
- 4 Section 83 of this Act does not apply to railway locomotives, carriages and trucks or to tramcars.
- 5 Part III of this Act and, in the Road Traffic Offenders Act 1988, the provisions connected with the licensing of drivers (within the meaning of that Act) do not apply to tramcars operated under statutory powers.
- 6 Sections 101 and 109 of this Act do not apply to trolley vehicles operated under statutory powers.
- 7 Part VI of this Act does not apply to tramcars or trolley vehicles operated under statutory powers.
- 8 Sections 78, 79, 163, 165, 168, 170, 171, 178, 190 and 191 of this Act and sections 1 and 2 of the Road Traffic Offenders Act 1988 do not apply to tramcars or trolley vehicles operated under statutory powers.
- 9 Section 164 of this Act does not apply to tramcars operated under statutory powers.
- 10 In this Schedule “operated under statutory powers” means, in relation to tramcars or trolley vehicles, that their use is authorised or regulated by special Act of Parliament or by an order having the force of an Act.
- 11 Paragraphs 1 to 3 and 5 to 9 above shall have effect subject to any such Act or order as is mentioned in paragraph 10 above, and any such Act or order may apply to the tramcars or trolley vehicles to which it relates any of the provisions excluded by those paragraphs except sections 47, 48 and 66 of this Act.