

SCHEDULES

SCHEDULE 2

DETENTION OF VEHICLES USED WITHOUT OPERATOR'S LICENCE

Return or disposal of vehicle

7. Regulations may make provision authorising a vehicle detained by virtue of paragraph 1 to be returned to the owner, in prescribed circumstances, without the need for any application under paragraph 8.

8.—(1) Regulations shall make provision enabling the owner of a goods vehicle detained by virtue of paragraph 1 to apply to the Department for the return of the vehicle.

(2) Regulations may, in particular—

- (a) require notice of an application to be given to the Department within such period as may be determined in accordance with the regulations, and
- (b) require notice of an application to be made in such form as may be prescribed.

(3) Regulations shall make provision as to the grounds upon which the owner may apply for the return of the vehicle.

(4) Those grounds may include the following grounds—

- (a) that at the time the vehicle was detained the person using the vehicle held an operator's licence (whether or not authorising the use of the vehicle)
- (b) that at the time the vehicle was detained the vehicle was not being, and had not been, used in contravention of section 1, or
- (c) that, although at the time the vehicle was detained it was being, or had been, used in contravention of section 1, the owner did not know that it was being, or had been, so used.

9.—(1) Regulations shall make provision—

- (a) enabling the Department to hold a hearing before determining an application by virtue of paragraph 8,
- (b) requiring the Department to hold a hearing if requested by a person who claims to be the owner,
- (c) as to the time within which the hearing must be held, and

- (d) subject to such provision as may be made by the regulations, for the hearing to be held in public.
 - (2) Regulations shall also provide that, if no hearing is held, the Department must determine the application within a prescribed time after receiving notice of the application.
 - (3) Regulations shall provide that—
 - (a) if the Department determines that one of the grounds prescribed by virtue of paragraph 8(3) is made out, it must order the person specified in a direction by virtue of paragraph 5(1) to return the goods vehicle to the owner;
 - (b) if the Department determines that none of those grounds is made out, the vehicle may be sold or destroyed by the person specified, in such manner as may be prescribed.
- 10.**—(1) Regulations shall provide for an appeal to the Upper Tribunal against the determination of the Department.
- (2) Regulations—
 - (a) may prescribe the period within which an appeal must be made, and
 - (b) may make provision for notice of the appeal to be given to the Upper Tribunal, the Department and such other persons as may be prescribed.
- 11.** Regulations may provide that, if no application is made to the Department in accordance with regulations made by virtue of paragraph 8, any goods vehicle detained by virtue of paragraph 1 may be sold or destroyed in such manner as may be prescribed.