

Draft Order laid before the House of Commons under section 102 of the Finance (No. 2) Act 1987 for approval by resolution of that House

DRAFT STATUTORY INSTRUMENTS

2003 No.

FEES AND CHARGES

The Department of Transport (Fees) (Amendment) Order 2003

Made - - - - 2003
Coming into force - - 2003

The Secretary of State for Transport, in exercise of the powers conferred by section 102 of the Finance (No. 2) Act 1987(1), and of all other powers enabling him in that behalf, hereby makes the following Order a draft of which has been laid before, and approved by resolution of, the House of Commons:—

Citation and commencement

1. This Order may be cited as the Department of Transport (Fees) (Amendment) Order 2003 and shall come into force on the day after the day on which it is made.

Amendments to the Department of Transport (Fees) Order 1988

2.—(1) The Department of Transport (Fees) Order 1988(2) shall be further amended as follows.

(2) In Table III in Schedule 1 (fees payable under the Road Traffic Act 1988) (3)—

- (a) for paragraphs 1 and 2, there shall be substituted paragraph 1 set out in Part I of Schedule 1 to this Order;
- (b) after paragraph 7, there shall be inserted paragraph 7A set out in Part II of Schedule 1 to this Order;
- (c) in paragraph 12, for the words in the left hand column there shall be substituted the words set out in Part III of Schedule 1 to this Order.

(3) In Table VI in Schedule 1 (fees payable under the Vehicle Excise and Registration Act 1994(4)), after paragraph 1 there shall be inserted paragraph 1A set out in Schedule 2 to this Order.

(1) 1987 c. 51.
(2) S.I.1988/643; relevant amending instruments are S.I. 1991/811, 1995/1684, 1996/1961 and 1998/459.
(3) 1988 c. 52.
(4) 1994 c. 22.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK
Statutory Instrument: The Department of Transport (Fees) (Amendment) Order 2003 No. 1094

Signed by authority of the Secretary of State

2003

Parliamentary Under Secretary of State,
Department for Transport

SCHEDULE 1

Article 2(2)

PARAGRAPHS TO BE INSERTED INTO TABLE III OF SCHEDULE 1 TO THE DEPARTMENT OF TRANSPORT (FEES) ORDER 1988.

TABLE III—

Road Traffic Act 1988

<i>(1)</i> <i>Fee-Fixing Power</i>	<i>(2)</i> <i>Specified Functions</i>	<i>(3)</i> <i>Specified matters as set out in Schedule 2, which apply.</i>
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PART I

1. Sections 45(6A) and 46(1)(f), (h) and (j), 2(b), (4), (5) and (6)—(5)

- (a) powers to make provision for courses of instruction in connection with examinations under section 45 and to charge fees in respect of attendance on such courses; and
- (b) powers to make provision in respect of fees and charges in connection with tests of the condition of vehicles under section 45 in respect of—

(A) Public service vehicles;

- (i) The functions of the Secretary of State in relation to the testing of public service vehicles under the Road Traffic Act 1988 and the Public Passenger Vehicles Act 1981.(6)
- (ii) Any other functions of the Secretary of State in relation to the testing of public service vehicles.

Paragraphs 1 to 8

(5) Section 45 was amended by the Road Traffic Act 1991 (c. 40), Schedule 4, paragraph 52 and by the Road Traffic (Vehicle Testing) Act 1999 (c. 12), section 1. Section 46 was substituted by the Road Traffic (Vehicle Testing) Act 1999, section 2.
(6) 1981 c. 14; section 6 was amended by the Road Traffic (Consequential Provisions) Act 1988 (c. 54), section 4 and Schedule 3; the Road Traffic Act 1991, Schedule 4, paragraph 14; the Criminal Justice Act 1982 (c. 48), section 38 and 46. Section 10 was amended by the Road Traffic Act 1991, Schedule 4, paragraph 15.

<i>(1)</i> <i>Fee-Fixing Power</i>	<i>(2)</i> <i>Specified Functions</i>	<i>(3)</i> <i>Specified matters as set out in Schedule 2, which apply.</i>
(B) Vehicles other than public service vehicles.	<p>(i) Functions of the Secretary of State in relation to the testing of vehicles to which section 45 applies, other than public service vehicles, under the Road Traffic Act 1988.</p> <p>(ii) Any other functions of the Secretary of State in relation to the testing of vehicles, to which section 45 applies, other than public service vehicles, including, without prejudice to the generality of the foregoing:—</p> <ul style="list-style-type: none"> (a) inspections of premises, equipment, records, vehicles and testing station testing standards; (b) training, re-training and checking of the continuing competence of testers and authorised examiners; (c) enforcement action against testers, inspectors, designated councils and authorised examiners; (d) the issue of duplicate test certificates; (e) functions in connection with appeal tests; (f) provision of services to create or maintain records including electronic data or to transfer information between persons 	Paragraphs 1 to 8

<i>(1)</i> <i>Fee-Fixing Power</i>	<i>(2)</i> <i>Specified Functions</i>	<i>(3)</i> <i>Specified matters as set out in Schedule 2, which apply.</i>
	by electronic data transmission or other means; (g) the installation, modification, servicing, repair or replacement of apparatus or the training, supervision, inspection or monitoring of persons authorised to use such apparatus.”	

PART II

7A. Section 99ZC—(7)
power to provide in regulations under section 99ZA (compulsory driver training courses) for the charging of reasonable fees in respect of the exercise of functions conferred or imposed on the Secretary of State.

- (i) The functions of the Secretary of State under the regulations.
- (ii) All the functions of the Secretary of State in relation to driver training.

Paragraphs 1 to 8.”

PART III

12. Section 132(2)—(8)
power to prescribe in regulations fees in respect of the taking of the prescribed parts of—

- (i) the qualifying examination, and
- (ii) the test of continued ability and fitness.”

(7) Section 99ZA to 99ZC were inserted by section 257 of the Transport Act 2000 (c. 38).

(8) Section 132(2) was amended by the Transport Act 2000, Schedule 29, paragraph 9.

SCHEDULE 2

Article 2(3)

PARAGRAPH TO BE INSERTED INTO TABLE VI OF SCHEDULE 1 TO THE DEPARTMENT OF TRANSPORT (FEES) ORDER 1988

TABLE VI—

The Vehicle Excise and Registration Act 1994

<i>(1)</i> <i>Fee-Fixing Power</i>	<i>(2)</i> <i>Specified Functions</i>	<i>(3)</i> <i>Specified matters as set out in Schedule 2, which apply.</i>
<p>1A. Section 22A(3)(b), (d), (g), (h) and (j)—(9) powers to make provision in respect of fees in connection with examinations and re-examinations resulting from appeals and the repayment of fees for re-examinations.</p>	<p>The functions of the Secretary of State in relation to the vehicle identify checks under section 22A.</p>	<p>Paragraphs 1 to 8”</p>

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Department of Transport (Fees) Order 1988 (the “Fees Order 1988”) in respect of—

- (a) those functions, the costs of which are to be taken into account in determining the fees and charges in relation to—
 - (i) regulations made under sections 45 and 46 of the Road Traffic Act 1988 (the “1988 Act”) (which relates to the tests of the satisfactory condition of vehicles);
 - (ii) regulations under section 99ZA of the 1988 Act (compulsory driver training courses);
 - (iii) regulations under section 132 of the 1988 Act (examinations and tests of ability to give driving instruction); and
 - (iv) regulations under section 22(1)(h) of the Vehicle Excise and Registration Act 1994 (the “1994 Act”) (issue of new registration documents for vehicles);
- (b) the matters to be taken into account in determining those costs by reference to Schedule 2 to the Fees Order 1988.

Article 2(2) of the Order makes three changes. First, it substitutes a new paragraph 1 for paragraphs 1 and 2 in Table III of Schedule 1 to the Fees Order 1988 (fees payable under the Road Traffic Act

(9) Section 22A was inserted by section 33 of the Vehicles (Crime) Act 2001 (c. 3).

1988). Column (3) in Schedule 1 to the Order lists the specified matters as set out in Schedule 2 to the Fees Order 1988 which apply. These now include paragraph 8 of Schedule 2 to that Order which allows, as part of the costs which fall to be taken into account on the exercise of the power to fix fees, the recovery of any past deficits incurred in relation to any of the functions specified in Schedule 1 to the Fees Order 1988. (The provisions of sections 45 and 46 of the 1998 Act were amended by sections 1 and 2 of the Road Traffic (Vehicle Testing) Act 1999.)

Secondly, article 2(2) inserts a new paragraph 7A in Table III of Schedule 1 to the Fees Order 1988 specifying that the costs of exercising the functions in respect of compulsory driver training courses are to be taken into account in setting fees in relation to those courses and that the matters to be taken into account in determining those costs are the matters set out in paragraphs 1 to 8 of the Fees Order 1988. (The powers in sections 99ZA to 99ZC of the 1988 Act to make such regulations were inserted into the 1988 Act by section 257 of the Transport Act 2000.)

Thirdly, article 2(2) substitutes new wording in the left hand column of paragraph 12 in Table III of Schedule 1 to the Fees Order 1988 relating to the powers to prescribe in regulations fees in respect of the taking of prescribed parts of the qualifying examination and the test of continued ability and fitness to give driving instruction under section 132 of the 1988 Act (which was amended by paragraph 9 of Schedule 29 to the Transport Act 2000).

Article 2(3) of the Order inserts a new paragraph 1A in Table VI of Schedule 1 to the Fees Order 1988 (fees payable under the 1994 Act) concerning the functions of the Secretary of State in relation to vehicle identify checks. Column (3) in Schedule 2 to the Order provides that the specified matters set out in Schedule 2 to the Fees Order 1988 which apply are paragraphs 1 to 8 of that Schedule. (Section 22A of the 1994 Act was inserted by section 33 of the Vehicles (Crime) Act 2001 and relates to regulations under section 22(1)(h) of the 1994 Act and vehicle identity checks.)