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Road Traffic Act 1988

1988 CHAPTER 52

PART II

CONSTRUCTION AND USE OF VEHICLES AND EQUIPMENT

General regulation of construction, use etc.

41 Regulation of construction, weight, equipment and use of vehicles.

- (1) The Secretary of State may make regulations generally as to the use of motor vehicles and trailers on roads, their construction and equipment and the conditions under which they may be so used.

Subsections (2) to (4) below do not affect the generality of this subsection.

- (2) In particular, the regulations may make provision with respect to any of the following matters—
- (a) the width, height and length of motor vehicles and trailers and the load carried by them, the diameter of wheels, and the width, nature and condition of tyres, of motor vehicles and trailers,
 - (b) the emission or consumption of smoke, fumes or vapour and the emission of sparks, ashes and grit,
 - (c) noise,
 - (d) the maximum weight unladen of heavy locomotives and heavy motor cars, and the maximum weight laden of motor vehicles and trailers, and the maximum weight to be transmitted to the road or any specified area of the road by a motor vehicle or trailer of any class or by any part or parts of such a vehicle or trailer in contact with the road, and the conditions under which the weights may be required to be tested,
 - (e) the particulars to be marked on motor vehicles and trailers,
 - (f) the towing of or drawing of vehicles by motor vehicles,
 - (g) the number and nature of brakes, and for securing that brakes, silencers and steering gear are efficient and kept in proper working order,

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- (h) lighting equipment and reflectors,
 - (j) the testing and inspection, by persons authorised by or under the regulations, of the brakes, silencers, steering gear, tyres, lighting equipment and reflectors of motor vehicles and trailers on any premises where they are (if the owner of the premises consents),
 - (k) the appliances to be fitted for—
 - (i) signalling the approach of a motor vehicle, or
 - (ii) enabling the driver of a motor vehicle to become aware of the approach of another vehicle from the rear, or
 - (iii) intimating any intended change of speed or direction of a motor vehicle,
 and the use of any such appliance, and for securing that any such appliance is efficient and kept in proper working order,
 - (l) for prohibiting the use of appliances fitted to motor vehicles for signalling their approach, being appliances for signalling by sound, at any times, or on or in any roads or localities, specified in the regulations.
- (3) The Secretary of State may, as respects goods vehicles, make regulations under this section—
- (a) prescribing other descriptions of weight which are not to be exceeded in the case of such vehicles,
 - (b) providing for the marking on such vehicles of weights of any description or other particulars by means of plates (of any material) fixed to them,
 - (c) providing for the circumstances in which any particulars which are to be marked on such vehicles are to be so marked,
 - (d) providing that weights of any description or other particulars which are to be marked on particular goods vehicles may be determined in accordance with regulations under section 49 of this Act.
- (4) Regulations under this section with respect to lighting equipment and reflectors—
- (a) may require that lamps be kept lit at such times and in such circumstances as may be specified in the regulations, and
 - (b) may extend, in like manner as to motor vehicles and trailers, to vehicles of any description used on roads, whether or not they are mechanically propelled.
- (5) Different regulations may be made under this section as respects different classes of vehicles or as respects the same class of vehicles in different circumstances and as respects different times of the day or night and as respects roads in different localities.
- (6) In framing regulations under this section prescribing a weight of any description which is not to be exceeded in the case of goods vehicles of a class for which a certificate of conformity or Minister’s approval certificate may be issued under section 57 or 58 of this Act the Secretary of State must have regard to the design weight of the like description determined by virtue of section 54 of this Act for vehicles of that class and must secure that the first-mentioned weight does not exceed the design weight.
- (7) In this Part of this Act—
- “construction and use requirements” means requirements, whether applicable generally or at specified times or in specified circumstances, imposed under this section,

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“plated particulars” means such particulars as are required to be marked on a goods vehicle in pursuance of regulations under this section by means of a plate,

“plated weights” means such weights as are required to be so marked.

Subordinate Legislation Made

- P1** S. 41 power exercised (20.9.1991) by [S.I.1991/2125](#) and (3.12.1991) by [S.I.1991/2710](#)
P2 S. 41: for exercises of this power before 1.2.1991 see Index to Government Orders
P3 S. 41(1)(2)(5): s. 41(1) (with s. 41(2) and (5)) power exercised (4.7.1991) by [S.I. 1991/1526](#)
P4 S. 41(1)(5): s. 41(1) (with s. 41(5)) power exercised (4.7.1991) by [S.I.1991/1527](#) and (5.9.1991) by [S.I.1991/2003](#)

VALID FROM 01/07/1992

[^{F1}41A Breach of requirement as to brakes, steering-gear or tyres.

A person who—

- (a) contravenes or fails to comply with a construction and use requirement as to brakes, steering-gear or tyres, or
 - (b) uses on a road a motor vehicle or trailer which does not comply with such a requirement, or causes or permits a motor vehicle or trailer to be so used,
- is guilty of an offence.]

Textual Amendments

- F1** Ss. 41A, 41B, 42 substituted (1.7.1992) for s. 42 by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), [s. 8\(2\)](#); [S.I. 1992/1286](#), [art. 2](#), Sch.

VALID FROM 01/07/1992

[^{F2}41B Breach of requirement as to weight: goods and passenger vehicles.

(1) A person who—

- (a) contravenes or fails to comply with a construction and use requirement as to any description of weight applicable to—
 - (i) a goods vehicle, or
 - (ii) a motor vehicle or trailer adapted to carry more than eight passengers, or
- (b) uses on a road a vehicle which does not comply with such a requirement, or causes or permits a vehicle to be so used,

is guilty of an offence.

(2) In any proceedings for an offence under this section in which there is alleged a contravention of or failure to comply with a construction and use requirement as to any description of weight applicable to a goods vehicle, it shall be a defence to prove either—

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- (a) that at the time when the vehicle was being used on the road—
- (i) it was proceeding to a weighbridge which was the nearest available one to the place where the loading of the vehicle was completed for the purpose of being weighed, or
 - (ii) it was proceeding from a weighbridge after being weighed to the nearest point at which it was reasonably practicable to reduce the weight to the relevant limit, without causing an obstruction on any road, or
- (b) in a case where the limit of that weight was not exceeded by more than 5 per cent.—
- (i) that that limit was not exceeded at the time when the loading of the vehicle was originally completed, and
 - (ii) that since that time no person has made any addition to the load.]

Textual Amendments

F2 Ss. 41A, 41B, 42 substituted (1.7.1992) for s. 42 by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), **s. 8(2)**; [S.I. 1992/1286](#), **art. 2**, Sch.

PROSPECTIVE

[^{F3}41C Breach of requirement as to speed assessment equipment detection devices

A person who—

- (a) contravenes or fails to comply with a construction or use requirement as to speed assessment equipment detection devices, or
 - (b) uses on a road a motor vehicle or trailer which does not comply with such a requirement, or causes or permits a motor vehicle or trailer to be so used,
- is guilty of an offence.]

Textual Amendments

F3 S. 41C inserted (prosp.) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 18(2)**, 61

Modifications etc. (not altering text)

C1 S. 41C excluded (17.4.2019) by [The Motor Sport on Public Roads \(Scotland\) Regulations 2019 \(S.S.I. 2019/138\)](#), regs. 1, 6, **sch. 2**

VALID FROM 27/02/2007

[^{F4}41D Breach of requirements as to control of vehicle, mobile telephones etc.

A person who contravenes or fails to comply with a construction and use requirement—

- (a) as to not driving a motor vehicle in a position which does not give proper control or a full view of the road and traffic ahead, or not causing or

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permitting the driving of a motor vehicle by another person in such a position, or

(b) as to not driving or supervising the driving of a motor vehicle while using a hand-held mobile telephone or other hand-held interactive communication device, or not causing or permitting the driving of a motor vehicle by another person using such a telephone or other device,

is guilty of an offence.]

Textual Amendments

F4 S. 41D inserted (27.2.2007) by [Road Safety Act 2006 \(c. 49\)](#), ss. **26(1)**, 61; S.I. 2007/237, **art. 2(a)**

42 Offence where regulations are contravened, etc.

- (1) Subject to subsection (2) below and sections 43 and 44 of this Act, a person who—
- (a) contravenes or fails to comply with any regulations under section 41 of this Act, or
 - (b) uses on a road a motor vehicle or trailer which does not comply with any such regulations or causes or permits a vehicle to be so used,
- is guilty of an offence.
- (2) In any proceedings for an offence under subsection (1) above in which there is alleged a contravention of or failure to comply with a construction and use requirement relating to any description of weight applicable to a goods vehicle, it shall be a defence to prove either—
- (a) that at the time when the vehicle was being used on the road—
 - (i) it was proceeding to a weighbridge which was the nearest available one to the place where the loading of the vehicle was completed for the purpose of being weighed, or
 - (ii) it was proceeding from a weighbridge after being weighed to the nearest point at which it was reasonably practicable to reduce the weight to the relevant limit, without causing an obstruction on any road, or
 - (b) in a case where the limit of that weight was not exceeded by more than 5 per cent.—
 - (i) that that limit was not exceeded at the time when the loading of the vehicle was originally completed, and
 - (ii) that since that time no person has made any addition to the load.

43 Temporary exemption from application of regulations under section 41.

- (1) Subject to subsections (2) to (4) below, where any regulations under section 41 of this Act contain provisions varying the requirements as regards the construction or weight of any class of vehicles, provision shall be made by the regulations for exempting from those provisions for such period, not being less than five years, as may be specified in the regulations any vehicle of that class registered under the ^{M1}Vehicles (Excise) Act 1971 before the expiration of one year from the making of the regulations.
- (2) No such provision contained in regulations under section 41 as imposes or varies requirements with respect to the braking systems with which motor vehicles must

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be equipped shall be taken, for the purposes of subsection (1) above or of any other provision of the regulations, to be one relating to the construction of vehicles.

(3) Where regulations under section 41 contain provisions varying the requirements as regards the construction or weight of any class of vehicle, and the Secretary of State is satisfied—

- (a) that it is requisite that those provisions shall apply at a date specified in the regulations to vehicles registered before the expiration of one year from the making of the regulations, or to such of them as are specified in the regulations, and
- (b) that no undue hardship or inconvenience will be caused by their application then to those vehicles,

then, if the regulations state that the Secretary of State is so satisfied, subsection (1) above shall not apply in relation to those provisions.

(4) Subsection (1) above shall not apply in relation to—

- (a) regulations made with respect to any description of weight of goods vehicles, other than their maximum unladen weight, or
- (b) regulations made by virtue of section 41(3) of this Act.

Marginal Citations

M1 1971 c. 10.

44 Authorisation of use on roads of special vehicles not complying with regulations under section 41.

(1) The Secretary of State may by order authorise, subject to such restrictions and conditions as may be specified by or under the order, the use on roads—

- (a) of special motor vehicles or trailers, or special types of motor vehicles or trailers, which are constructed either for special purposes or for tests or trials,
- (b) of vehicles or trailers, or types of vehicles or trailers, constructed for use outside the United Kingdom,
- (c) of new or improved types of motor vehicles or trailers, whether wheeled or wheelless, or of motor vehicles or trailers equipped with new or improved equipment or types of equipment, and
- (d) of vehicles or trailers carrying loads of exceptional dimensions,

and nothing in sections 41 and 42 of this Act shall prevent the use of such vehicles, trailers, or types in accordance with the order.

(2) The Secretary of State may by order make provision for securing that, subject to such restrictions and conditions as may be specified by or under the order, regulations under section 41 of this Act shall have effect in their application to such vehicles, trailers and types of vehicles and trailers as are mentioned in subsection (1) above subject to such modifications or exceptions as may be specified in the order.

(3) The powers conferred by this section on the Secretary of State to make orders shall be exercisable by statutory instrument except in the case of orders applying only to specified vehicles or to vehicles of specified persons, but in that excepted case (as in others) the order may be varied or revoked by subsequent order of the Secretary of State.

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