

SCHEDULE 5

OFFENCES, ENFORCEMENT AND OTHER MATTERS

PART I

Provisions as to offences

Offences and penalties

- 1.—(1) It shall be an offence to contravene—
regulation 5 (suppliers' duty in respect of the provision of figures);
regulation 6 (dealers' duty in respect of the fuel economy label);
regulation 7 (dealers' duty in respect of the fuel economy guide);
regulation 8 (dealers' duty in respect of a poster or display);
regulation 9 (dealers' and suppliers' duties in respect of promotional literature);
regulation 10 (dealers' and suppliers' duties in respect of promotional literature.);
paragraph 5 of this Schedule (obstruction of authorised officers and false statements); or
paragraph 6(7) of this Schedule (prohibition of purported search and seizure by an unauthorised person).

(2) A person guilty of any offence specified in sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Prosecution of offences

2. Proceedings for an offence under these Regulations shall be instituted—
(a) in England and Wales, by an enforcement authority;
(b) in Northern Ireland, by or on behalf of the enforcement authority or the Director of Public Prosecutions for Northern Ireland.

Defences

3.—(1) Subject to sub-paragraph (2) to (4), in proceedings against a person for an offence under these Regulations it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings (which in Scotland include the trial diet) against any person for such an offence the defence provided for by sub-paragraph (1) involves an allegation that the commission of the offence was due—

- (a) to the act or default of another, or
(b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet) he has served a notice under sub-paragraph (3) on the person bringing the proceedings.

(3) A notice under this sub-paragraph shall give such information identifying or assisting in the identification of the person who is alleged to have committed the act or default or to have given information as is in the possession of the person serving the notice at the time he serves it.

Status: This is the original version (as it was originally made).

(4) A person shall not be entitled to rely on the defence provided by sub-paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

- (a) to whether he had any reason to disbelieve the information, and
- (b) in the case of a supplier, to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information.

Liability of a person other than the principal offender

4.—(1) Where the commission by any person of an offence under these Regulations is due to an act or default committed by some other person in the course of any business of his, that other person shall be guilty of the offence and may be proceeded against and punished by virtue of this sub-paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of sub-paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, sub-paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Where a Scottish partnership is guilty of an offence under these Regulations (including where it is so guilty by virtue of sub-paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership, he, as well as the partnership, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.