



# Road Traffic Act 1991

## 1991 CHAPTER 40

### PART I

#### GENERAL

##### *Construction and use*

### **8 Construction and use of vehicles.**

(1) At the beginning of Part II of the <sup>M1</sup>Road Traffic Act 1988 there shall be inserted—

*“ Using vehicle in dangerous condition*

#### **40A Using vehicle in dangerous condition etc.**

A person is guilty of an offence if he uses, or causes or permits another to use, a motor vehicle or trailer on a road when—

- (a) the condition of the motor vehicle or trailer, or of its accessories or equipment, or
- (b) the purpose for which it is used, or
- (c) the number of passengers carried by it, or the manner in which they are carried, or
- (d) the weight, position or distribution of its load, or the manner in which it is secured,

is such that the use of the motor vehicle or trailer involves a danger of injury to any person.”

(2) For section 42 of that Act there shall be substituted—

#### **“41A Breach of requirement as to brakes, steering-gear or tyres.**

A person who—

*Status: Point in time view as at 13/11/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Road Traffic Act 1991, Cross Heading: Construction and use. (See end of Document for details)*

- (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.

#### **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—
- (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.

#### **42 Breach of other construction and use requirements.**

- A person who—
- (a) contravenes or fails to comply with any construction or use requirement other than one within section 41A(a) or 41B(1)(a) of this Act, 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.”

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**Modifications etc. (not altering text)**

**C1** S. 8 wholly in force at 1.7.1992 see s. 84 and S.I. 1992/1286, art. 2, Sch.

**Marginal Citations**

**M1** 1988 c. 52.

**9 Vehicle examiners.**

- (1) Section 7 of the <sup>M2</sup>Public Passenger Vehicles Act 1981 and section 68(1) and (2) of the <sup>M3</sup>Road Traffic Act 1988 (which provide for the appointment of certifying officers, public service vehicle examiners and examiners of goods vehicles) shall cease to have effect, and after section 66 of the Road Traffic Act 1988 there shall be inserted—

*“ Vehicle examiners*

**66A Appointment of examiners.**

- (1) The Secretary of State shall appoint such examiners as he considers necessary for the purpose of carrying out the functions conferred on them by this Part of this Act, the Public Passenger Vehicles Act 1981, the Transport Act 1968 and any other enactment.
- (2) An examiner appointed under this section shall act under the general directions of the Secretary of State.
- (3) In this Part of this Act “vehicle examiner” means an examiner appointed under this section.”
- (2) Any reference in any Act, or in any instrument made under any Act, to a certifying officer or public service vehicle examiner appointed under the Public Passenger Vehicles Act 1981 or to an examiner appointed under section 68(1) of the Road Traffic Act 1988 shall, so far as may be appropriate in consequence of the preceding provisions of this section, be construed as a reference to an examiner appointed under section 66A of the Road Traffic Act 1988.

**Commencement Information**

**I1** S. 9 wholly in force at 1.7.1992 see s. 84 and S.I. 1992/1286, art. 2, Sch.

**Marginal Citations**

**M2** 1981 c. 14.

**M3** 1988 c. 52.

**10 Testing vehicles on roads.**

- (1) Section 67 of the <sup>M4</sup>Road Traffic Act 1988 (tests on roads to ascertain compliance with certain requirements) shall be amended as follows.
- (2) In subsection (1) for paragraph (a) there shall be substituted—
- “(a) ascertaining whether the following requirements, namely—

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- (i) the construction and use requirements, and
  - (ii) the requirement that the condition of the vehicle is not such that its use on a road would involve a danger of injury to any person,
- are complied with as respects the vehicle;”.
- (3) For subsection (2) there shall be substituted—
- “(2) For the purpose of testing a vehicle under this section the examiner—
- (a) may require the driver to comply with his reasonable instructions, and
  - (b) may drive the vehicle.”
- (4) In subsection (4)(b) for “68(1)” there shall be substituted “ 66A ”.
- (5) In subsection (4)(e) for the words “under instructions of the” there shall be substituted the words “ on behalf of a ”.

#### Commencement Information

**I2** S. 10 wholly in force at 1.7.1992 see s. 84 and [S.I. 1992/1286, art. 2, Sch.](#)

#### Marginal Citations

**M4** [1988 c. 52.](#)

## 11 Inspection of vehicles.

Subsections (1) to (2) of section 8 of the <sup>M5</sup>Public Passenger Vehicles Act 1981 (inspection of public service vehicles) shall cease to have effect, and for section 68 of the Road Traffic Act 1988 (inspection of goods vehicles) there shall be substituted—

*“ Inspection of public passenger vehicles and goods vehicles*

### **68 Inspection of public passenger vehicles and goods vehicles.**

- (1) A vehicle examiner—
  - (a) may at any time, on production if so required of his authority, inspect any vehicle to which this section applies and for that purpose detain the vehicle during such time as is required for the inspection, and
  - (b) may at any time which is reasonable having regard to the circumstances of the case enter any premises on which he has reason to believe that such a vehicle is kept.
- (2) The power conferred by subsection (1) above to inspect a vehicle includes power to test it and to drive it for the purpose of testing it.
- (3) A person who intentionally obstructs an examiner in the exercise of his powers under subsection (1) above is guilty of an offence.
- (4) A vehicle examiner or a constable in uniform may at any time require any person in charge of a vehicle to which this section applies and which is stationary on a road to proceed with the vehicle for the purpose of having it inspected under this section to any place where an inspection can be

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suitably carried out (not being more than five miles from the place where the requirement is made).

- (5) A person in charge of a vehicle who refuses or neglects to comply with a requirement made under subsection (4) above is guilty of an offence.
- (6) This section applies to—
- (a) goods vehicles,
  - (b) public service vehicles, and
  - (c) motor vehicles which are not public service vehicles but are adapted to carry more than eight passengers;

but subsection (1)(b) above shall not apply in relation to vehicles within paragraph (c) above or in relation to vehicles used to carry passengers for hire or reward only under permits granted under section 19 or 22 of the Transport Act 1985 (use of vehicles by educational and other bodies or in providing community bus services).”

#### Commencement Information

**I3** S. 11 wholly in force at 1.7.1992 see s. 84 and [S.I. 1992/1286, art. 2, Sch.](#)

#### Marginal Citations

**M5** 1981 c. 14.

## 12 Power to prohibit driving of unfit vehicles.

Section 9 of the <sup>M6</sup>Public Passenger Vehicles Act 1981 (unfit public service vehicles) shall cease to have effect, and for section 69 of the <sup>M7</sup>Road Traffic Act 1988 (unfit goods vehicles) there shall be substituted—

*“ Prohibition of unfit vehicles*

### 69 Power to prohibit driving of unfit vehicles.

- (1) If on any inspection of a vehicle under section 41, 45, 49, 61, 67, 68 or 77 of this Act it appears to a vehicle examiner that owing to any defects in the vehicle it is, or is likely to become, unfit for service, he may prohibit the driving of the vehicle on a road—
- (a) absolutely, or
  - (b) for one or more specified purposes, or
  - (c) except for one or more specified purposes.
- (2) If on any inspection of a vehicle under any of the enactments mentioned in subsection (1) above it appears to an authorised constable that owing to any defects in the vehicle driving it (or driving it for any particular purpose or purposes or for any except one or more particular purposes) would involve a danger of injury to any person, he may prohibit the driving of the vehicle on a road—
- (a) absolutely, or
  - (b) for one or more specified purposes, or

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- (c) except for one or more specified purposes.
- (3) A prohibition under this section shall come into force as soon as the notice under subsection (6) below has been given if—
  - (a) it is imposed by an authorised constable, or
  - (b) in the opinion of the vehicle examiner imposing it the defects in the vehicle in question are such that driving it, or driving it for any purpose within the prohibition, would involve a danger of injury to any person.
- (4) Except where subsection (3) applies, a prohibition under this section shall (unless previously removed under section 72 of this Act) come into force at such time not later than ten days from the date of the inspection as seems appropriate to the vehicle examiner imposing the prohibition, having regard to all the circumstances.
- (5) A prohibition under this section shall continue in force until it is removed under section 72 of this Act.
- (6) A person imposing a prohibition under this section shall forthwith give notice in writing of the prohibition to the person in charge of the vehicle at the time of the inspection—
  - (a) specifying the defects which occasioned the prohibition;
  - (b) stating whether the prohibition is on all driving of the vehicle or driving it for one or more specified purposes or driving it except for one or more specified purposes (and, where applicable, specifying the purpose or purposes in question); and
  - (c) stating whether the prohibition is to come into force immediately or at the end of a specified period.
- (7) Where a notice has been given under subsection (6) above, any vehicle examiner or authorised constable may grant an exemption in writing for the use of the vehicle in such manner, subject to such conditions and for such purpose as may be specified in the exemption.
- (8) Where such a notice has been given, any vehicle examiner or authorised constable may by endorsement on the notice vary its terms and, in particular, alter the time at which the prohibition is to come into force or suspend it if it has come into force.
- (9) In this section “authorised constable” means a constable authorised to act for the purposes of this section by or on behalf of a chief officer of police.

#### **69A Prohibitions conditional on inspection etc.**

- (1) Where it appears to the person imposing a prohibition under section 69 of this Act that the vehicle is adapted to carry more than eight passengers, or is a public service vehicle not so adapted, the prohibition may be imposed with a direction making it irremovable unless and until the vehicle has been inspected at an official PSV testing station within the meaning of the Public Passenger Vehicles Act 1981.
- (2) Where it appears to that person that the vehicle is of a class to which regulations under section 49 of this Act apply, the prohibition may be imposed with a

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direction making it irremovable unless and until the vehicle has been inspected at an official testing station.

- (3) Where it appears to that person that the vehicle is one to which section 47 of this Act applies, or would apply if the vehicle had been registered under the Vehicles (Excise) Act 1971 more than three years earlier, the prohibition may be imposed with a direction making it irremovable unless and until the vehicle has been inspected, and a test certificate issued, under section 45 of this Act.
- (4) In any other case, the prohibition may be imposed with a direction making it irremovable unless and until the vehicle has been inspected in accordance with regulations under section 72 of this Act by a vehicle examiner or authorised constable (within the meaning of section 69 of this Act).”

#### Commencement Information

**I4** S. 12 wholly in force at 1.7.1992 see s. 84 and [S.I. 1992/1286, art. 2, Sch.](#)

#### Marginal Citations

**M6** 1981 c. 14.

**M7** 1988 c. 52.

### 13 Power to prohibit driving of overloaded vehicles.

- (1) Section 70 of the <sup>M8</sup>Road Traffic Act 1988 shall be amended as follows.
- (2) In subsection (1)—
  - (a) after the words “where a goods vehicle” there shall be inserted the words “, or a motor vehicle adapted to carry more than eight passengers,”;
  - (b) for the words “a goods vehicle examiner” there shall be substituted the words “ a vehicle examiner ”;
  - (c) at the end there shall be added the words “ or that by reason of excessive overall weight or excessive axle weight on any axle driving the vehicle would involve a danger of injury to any person ”.
- (3) In subsection (2)—
  - (a) for “69(2)” there shall be substituted “ 69(6) ”;
  - (b) after the words “that limit” there shall be inserted the words “ or, as the case may be, so that it is no longer excessive ”.
- (4) In subsection (4), for the words “a goods vehicle examiner” there shall be substituted the words “ a vehicle examiner ”.

#### Commencement Information

**I5** S. 13 wholly in force at 1.7.1992 see s. 84 and [S.I. 1992/1286, art. 2, Sch.](#)

#### Marginal Citations

**M8** 1988 c. 52.

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## 14 Unfit and overloaded vehicles: offences.

For section 71 of the Road Traffic Act 1988 there shall be substituted—

### “71 Unfit and overloaded vehicles: offences.

- (1) A person who—
- (a) drives a vehicle in contravention of a prohibition under section 69 or 70 of this Act, or
  - (b) causes or permits a vehicle to be driven in contravention of such a prohibition, or
  - (c) fails to comply within a reasonable time with a direction under section 70(3) of this Act,
- is guilty of an offence.
- (2) The Secretary of State may by regulations provide for exceptions from subsection (1) above.”

#### Commencement Information

**I6** S. 14 wholly in force at 1.7.1992 see s. 84 and S.I. 1992/1286, art. 2, Sch.

## 15 Removal of prohibitions.

(1) For section 72 of the <sup>M9</sup>Road Traffic Act 1988 there shall be substituted—

### “72 Removal of prohibitions.

- (1) Subject to the following provisions of this section, a prohibition under section 69 or 70 of this Act may be removed by any vehicle examiner or authorised constable if he is satisfied that the vehicle is fit for service.
- (2) If the prohibition has been imposed with a direction under section 69A(1) or (2) of this Act, the prohibition shall not be removed unless and until the vehicle has been inspected in accordance with the direction.
- (3) If the prohibition has been imposed with a direction under section 69A(3) of this Act, subsection (1) above shall not apply; but the prohibition shall be removed, by such person as may be prescribed, if (and only if) any prescribed requirements relating to the inspection of the vehicle and the issue and production of a test certificate have been complied with.
- (4) If the prohibition has been imposed with a direction under section 69A(4) of this Act, the prohibition shall not be removed unless and until any prescribed requirements relating to the inspection of the vehicle have been complied with.
- (5) A person aggrieved by the refusal of a vehicle examiner or authorised constable to remove a prohibition may, within the prescribed time and in the prescribed manner, appeal to the Secretary of State.
- (6) The Secretary of State may make such order on the appeal as he thinks fit.



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- (7) Where a vehicle examiner or authorised constable removes a prohibition, he must forthwith give notice of the removal to the owner of the vehicle.
- (8) The Secretary of State may require the payment of fees, in accordance with prescribed scales and rates, for the inspection of a vehicle with a view to the removal of a prohibition; and—
  - (a) payment of fees may be required to be made in advance, and
  - (b) the Secretary of State must ensure that all the scales and rates prescribed for the purposes of this subsection are reasonably comparable with—
    - (i) in the case of goods vehicles, the fees charged by virtue of section 51(1)(h) in respect of periodic examination, and
    - (ii) in the case of other vehicles, the fees charged by virtue of section 46(c).
- (9) The Secretary of State may make regulations for prescribing anything which may be prescribed under this section and for regulating the procedure, and fees payable, on appeals to him under subsection (5) above.
- (10) In this section “authorised constable” means a constable authorised to act for the purposes of this section by or on behalf of a chief officer of police.

#### **72A Official testing stations.**

The Secretary of State may provide and maintain stations (in this Part of this Act referred to as “official testing stations”) where inspections of goods vehicles for the purposes of section 72 may be carried out and may provide and maintain the apparatus for carrying out such inspections.”

#### **Commencement Information**

**I7** S. 15 wholly in force at 1.7.1992 see s. 84 and [S.I. 1992/1286, art. 2, Sch.](#)

#### **Marginal Citations**

**M9** [1988 c. 52.](#)

## **16 Supply of unroadworthy vehicles etc.**

- (1) Section 75 of the <sup>M10</sup>Road Traffic Act 1988 (vehicles not to be sold in unroadworthy condition or altered so as to be unroadworthy) shall be amended as follows.
- (2) In subsection (3), sub-paragraph (iii) of paragraph (a) shall be omitted and for paragraph (b) there shall be substituted—
  - “(b) it is in such a condition that its use on a road would involve a danger of injury to any person”.
- (3) In subsection (4), after the words “that condition” there shall be inserted—
  - “(a) ”, and at the end there shall be added the words  
“or  
(b) would involve a danger of injury to any person.”

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(4) In subsection (6), paragraph (c) shall be omitted.

(5) After subsection (6) there shall be inserted—

“(6A) Paragraph (b) of subsection (6) above shall not apply in relation to a person who, in the course of a trade or business—

- (a) exposes a vehicle or trailer for sale, unless he also proves that he took all reasonable steps to ensure that any prospective purchaser would be aware that its use in its current condition on a road in Great Britain would be unlawful, or
- (b) offers to sell a vehicle or trailer, unless he also proves that he took all reasonable steps to ensure that the person to whom the offer was made was aware of that fact.”

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**Commencement Information**

**I8** S. 16 wholly in force at 1.7.1992 see s. 84 and [S.I. 1992/1286, art. 2, Sch.](#)

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**Marginal Citations**

**M10** [1988 c. 52.](#)

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