

## SCHEDULES

### SCHEDULE 1

Article 84.

#### STATUTORY PROVISIONS CONFERRING FUNCTIONS ON AUTHORISED OFFICERS

<i>Statutory provision</i>	<i>Function conferred</i>
The Public Service Vehicles and Goods Vehicles (Drivers' Hours of Duty) Regulations 1935 and any regulations made under Article 56 or 58.	To examine records required to be kept by licensees and drivers of public service vehicles and goods vehicles.
Sections 37, 38 and 39 of the Transport Act (Northern Ireland) 1967.	To enter and inspect public service vehicles and goods vehicles, to inspect and copy documents required to be carried on such vehicles and to seize certain articles.
[ <sup>F1F1</sup> . . .	[ <sup>F2F2</sup> . . .
[ <sup>F3F3</sup> . . .	[ <sup>F4F4</sup> . . .
Article 64.	To examine public service vehicles.
[ <sup>F5F5</sup> . . .	[ <sup>F6F6</sup> . . .
Article 82.	To require production of and to inspect and copy books, records or documents which a person is required by the applicable Community rules to carry or have in his possession.
[ <sup>F7F7</sup> . . .	[ <sup>F8F8</sup> . . .
[ <sup>F9</sup> Regulation 16 of the European Communities (International Passenger Services) Regulations (Northern Ireland) 1987.	[ <sup>F10</sup> To require the production of, and to inspect, copy and mark, documents required to be kept or carried on certain passenger vehicles.
[ <sup>F11</sup> Article 75 of the Order of 1995.	[ <sup>F12</sup> To test motor vehicles on roads, etc.
[ <sup>F13</sup> Article 76 of the Order of 1995.	[ <sup>F14</sup> To stop and test goods vehicles, public passenger vehicles, etc.
[ <sup>F15</sup> Articles 86 and 87 of the Order of 1995.	[ <sup>F16</sup> To require a motor vehicle or any trailer drawn by a motor vehicle to be weighed.
[ <sup>F17</sup> Article 3a(3) of Council Regulation (EEC) No. 684/92 of 16th March 1992 on common rules for the international carriage of passengers by bus and coach as amended by Council Regulation (EC) No. 11/98 of 11th December 1997.	[ <sup>F18</sup> To require the production of a certain document which is required to be kept on board certain passenger vehicles.





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PROSPECTIVE

## [<sup>F37</sup>SCHEDULE 2A

### OFFENCE OF KEEPING VEHICLE WHICH DOES NOT MEET INSURANCE REQUIREMENTS: IMMOBILISATION, REMOVAL AND DISPOSAL OF VEHICLES

**F37** Sch. 2A inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), **Sch. 3**

#### *Immobilisation*

1.—(1) Regulations may make provision with respect to any case where an authorised person has reason to believe that, on or after such date as may be prescribed, an offence under Article 91A is being committed as regards a vehicle which is stationary on a road or other public place.

(2) The regulations may provide that the authorised person or a person acting under his direction may—

- (a) fix an immobilisation device to the vehicle while it remains in the place where it is stationary, or
- (b) move it from that place to another place on the same or another road or public place and fix an immobilization device to it in that other place.

(3) The regulations may provide that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations the person fixing the device must also fix to the vehicle a notice—

- (a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device,
- (b) specifying the steps to be taken to secure its release, and
- (c) giving such other information as may be prescribed.

(4) The regulations may provide that a vehicle to which an immobilisation device has been fixed in accordance with the regulations—

- (a) may only be released from the device by or under the direction of an authorised person, but
- (b) subject to that, must be released from the device if the first and second requirements specified below are met.

(5) The first requirement is that such charge in respect of the release as may be prescribed is paid in any manner specified in the immobilisation notice.

(6) The second requirement is that, in accordance with instructions specified in the immobilisation notice, there is produced such evidence as may be prescribed establishing—

- (a) that any person who proposes to drive the vehicle away will not in doing so be guilty of an offence under Article 90, and
- (b) that the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 is not guilty of an offence under Article 91A as regards the vehicle.

(7) The regulations may provide that they do not apply in relation to a vehicle if—

- (a) a current disabled person's badge is displayed on the vehicle, or

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(b) such other conditions as may be prescribed are fulfilled,  
and “disabled person's badge” means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 or a recognised badge within the meaning given by section 14A of that Act.

(8) The regulations may provide that an immobilisation notice is not to be removed or interfered with except by or on the authority of a person falling within a prescribed description.

### *Offences connected with immobilisation*

2.—(1) The regulations may provide that a person contravening provision made under paragraph 1(8) is guilty of an offence.

(2) The regulations may provide that a person who, without being authorised to do so in accordance with provision made under paragraph 1, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations is guilty of an offence.

(3) The regulations may provide that where they would apply in relation to a vehicle but for provision made under paragraph 1(7)(a) and the vehicle was not, at the time it was stationary, being used—

(a) in accordance with regulations under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978, and

(b) in circumstances falling within section 14B(1)(b) of that Act (use where a disabled person's concession would be available),

the person in charge of the vehicle at that time is guilty of an offence.

(4) The regulations may provide that where—

(a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations,

(b) the declaration is that no offence under Article 91A is or was being committed as regards the vehicle, and

(c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

### *Removal and disposal of vehicles*

3.—(1) The regulations may make provision with respect to any case where—

(a) an authorised person has reason to believe that an offence under Article 91A is being committed as regards a vehicle which is stationary on a road or other public place, and such conditions as may be prescribed are fulfilled, or

(b) an authorised person has reason to believe that such an offence was being committed as regards a vehicle at a time when an immobilisation device which is fixed to the vehicle was fixed to it in accordance with the regulations, and such conditions as may be prescribed are fulfilled.

(2) The regulations may provide that the authorised person, or a person acting under his direction, may remove the vehicle and deliver it into the custody of a person—

(a) who is identified in accordance with prescribed rules, and

(b) who agrees to accept delivery in accordance with arrangements agreed between that person and the Department,

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and the arrangements may include provision as to the payment of a sum to the person into whose custody the vehicle is delivered.

(3) The regulations may provide that the person into whose custody the vehicle is delivered may dispose of it, and may in particular make provision as to—

- (a) the time at which the vehicle may be disposed of, and
- (b) the manner in which it may be disposed of.

(4) The regulations may make provision allowing a person to take possession of the vehicle if—

- (a) he claims it before it is disposed of, and
- (b) any prescribed conditions are fulfilled.

(5) The regulations may provide for a sum of an amount arrived at under prescribed rules to be paid to a person if—

- (a) he claims after the vehicle's disposal to be or to have been its owner,
- (b) the claim is made within a prescribed time of the disposal, and
- (c) any other prescribed conditions are fulfilled.

(6) The regulations may provide that—

- (a) the Department, or
- (b) a person into whose custody the vehicle is delivered under the regulations,

may recover from the vehicle's owner (whether or not a claim is made under provision made under sub-paragraph (4) or (5)) such charges as may be prescribed in respect of all or any of the following, namely its release, removal, custody and disposal; and “owner” means the person who was the owner when the vehicle was removed.

(7) The conditions prescribed under sub-paragraph (4) may include conditions as to—

- (a) satisfying the person with custody that the claimant is the vehicle's owner,
- (b) the payment of prescribed charges in respect of the vehicle's release, removal and custody,
- (c) the production of such evidence as may be prescribed establishing that in driving the vehicle away the claimant will not be guilty of an offence under Article 90, and
- (d) the production of such evidence as may be prescribed establishing that the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 is not guilty of an offence under Article 91A as regards the vehicle.

(8) The regulations may in particular include provision for purposes corresponding to those of Articles 51 to 54 of the Road Traffic Regulation (Northern Ireland) Order 1997 (disposal and charges) subject to such additions, omissions or other modifications as the Department thinks fit.

#### *Offences as to securing possession of vehicles*

4. The regulations may provide that where—

- (a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of a person in accordance with provision made under paragraph 3,
- (b) the declaration is that no offence under Article 91A is or was being committed as regards the vehicle, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

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### *Disputes*

5. The regulations may make provision about the proceedings to be followed where a dispute occurs as a result of the regulations, and may in particular make provision—

- (a) for an application to be made to a court of summary jurisdiction, or
- (b) for a court to order a sum to be paid by the Department.

### *Authorised persons*

6. As regards anything falling to be done under the regulations (such as receiving payment of a charge or other sum) the regulations may provide that it may be done—

- (a) by an authorised person, or
- (b) by an authorised person or a person acting under his direction.

### *Application of Offenders Order*

7. The regulations may make provision for the application of any or all of Articles 5, 10, 14 and 15(1) of the Offenders Order to an offence for which provision is made by the regulations.

### *Interpretation*

8.—(1) The regulations may make provision as to the meaning for the purposes of the regulations of “owner” as regards a vehicle.

(2) In particular, the regulations may provide that for the purposes of the regulations the owner of a vehicle is taken to be the person in whose name it is then registered under the Vehicle Excise and Registration Act 1994.

9.—(1) The regulations may make provision as to the meaning in the regulations of “authorised person”.

(2) In particular, the regulations may provide that—

- (a) references to an authorised person are to a person authorised by the Department for the purposes of the regulations,
- (b) an authorised person may be a constable or some other person, and
- (c) different persons may be authorised for the purposes of different provisions of the regulations.

10. In this Schedule—

- (a) references to an immobilisation device are to a device or appliance which is—
  - (i) designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion; and
  - (ii) of a type approved by the Department for use for that purpose;
- (b) references to an immobilisation notice are to a notice fixed to a vehicle in accordance with the regulations.

11. In this Schedule “regulations” means regulations made by the Department under Article 103.]

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*Schedule 3 rep. by 1995 NI 18*

*Schedule 4 rep. by 1996 NI 10*

## SCHEDULE 5

Article 208.

### PROVISIONS AS TO INQUIRIES AND APPLICATIONS

1. Every application under this Order shall be made in such manner as may be prescribed and shall state the grounds upon which the application is made.

2. If on any application the Department determines that a public inquiry shall be held, the Department shall publish notice of the inquiry in such newspaper or newspapers on such number of days as the Department may direct, and also in the Belfast Gazette; if the Department holds an inquiry without an application the Department shall publish the necessary notices.

A notice for the purposes of this paragraph shall be in such form and shall contain such particulars as may be prescribed.

3. Subject to paragraph 4, all persons interested may appear at the inquiry either in person or by counsel, agent or solicitor.

4. No person shall be entitled to be heard at the inquiry unless he has within one week from the last publication of the notice of the holding of the inquiry sent a notice in writing to the Department of his desire to be heard at the inquiry, and the person holding the inquiry may refuse to hear any person if he is satisfied that the views of that person have been adequately stated on the inquiry by some other person.

5. Subject as aforesaid inquiries and all incidental proceedings shall be conducted in accordance with<sup>[F38]</sup> Schedule A1 to the Interpretation Act (Northern Ireland) 1954 as modified by<sup>[F39]</sup> Article 130(2) of the Roads (Northern Ireland) Order 1993.]]

**F38** 2005 c. 12

**F39** 1993 NI 15

## SCHEDULE 6

Article 217.

### SAVINGS

*Saving for certain provisions about minimum ages for driving*

1. Notwithstanding the repeal by this Order of paragraph 1 of Schedule 2 to the Road Traffic (Drivers' Ages and Hours of Work) (Northern Ireland) Order 1976



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- (a) subsection (2)(b) and (c) of section 2 of the Road Traffic Act (Northern Ireland) 1970 as originally enacted (driving of tractors on roads by persons between the ages of 16 and 17 in certain circumstances) shall continue to have effect and shall be deemed to be contained (with the appropriate modification of references) in regulations made under<sup>F40</sup> Article 17(2); and
  - (b) regulations made under subsection (5) (motor cycles) or subsection (7) (road rollers and articulated vehicles) of the said section 2 as originally enacted shall have effect (with the appropriate adaptation of references) as if made under<sup>F41</sup> Article 17(2),
- and (in each case) may be varied or revoked accordingly.]]

**F40** 1991 NI 3

**F41** 1991 NI 3

*Saving in relation to certain motor cars for holders of driving licences and similar persons*

2.—(1) This paragraph applies to a person who immediately before 1st January 1976 fulfilled any of the following conditions, that is to say—

- (a) he held a driving licence or a provisional licence authorising him to drive a motor car;
- (b) he was entitled to obtain a driving licence authorising him to drive a motor car or, having previously held a provisional licence, was entitled to obtain a provisional licence authorising him to drive a motor car or would have been (in either case) so entitled but for a current disqualification imposed by order of a court;
- (c) he would have been the holder of a valid driving licence or provisional licence authorising him to drive a motor car but for a current disqualification imposed by a conviction or order of a court.

(2) Subject to sub-paragraph (3), a person to whom this paragraph applies shall not, by reason only of<sup>F42</sup> Article 17, be disqualified for holding or obtaining a driving licence or a provisional licence authorising him to drive motor vehicles falling within the class described in paragraph 5 or 6 of the Table set out in<sup>F43</sup> Article 17(1).

(3) A person shall not be treated, by virtue of sub-paragraph (2), as entitled to the grant of a driving licence or a provisional licence authorising him to drive a goods vehicle the permissible maximum weight of which exceeds 10 tonnes or a motor vehicle constructed solely for the carriage of passengers and their effects which is adapted to carry more than 15 passengers inclusive of the driver.

(4) This paragraph shall be construed as if it were contained in Part II, but in sub-paragraph (1) any reference to a driving licence or a provisional licence includes a reference to a corresponding licence granted under Part III of the Road Traffic Act 1972 .]]

**F42** 1991 NI 3

**F43** 1991 NI 3

*Saving in relation to certain goods vehicles for holders of driving licences and similar persons*

3.—(1) This paragraph applies to—

- (a) a goods vehicle which, by virtue of the Road Traffic (Drivers' Ages and Hours of Work) (Northern Ireland) Order 1976, became classified as a heavy goods vehicle, that is to say, a motor car which—

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- (i) became, by virtue of paragraph 11 of Schedule 1 to that Order, a heavy goods vehicle for the purposes of sections 66 to 72 and section 74 of the Road Traffic Act (Northern Ireland) 1970 (not having been a heavy goods vehicle for those purposes before the commencement of the said paragraph 11); and
  - (ii) was not an articulated goods vehicle (within the meaning of Article 79);
- (b) a person who, immediately before 12th April 1976, fulfilled any of the following conditions, that is to say,—
- (i) he held a driving licence or a provisional licence authorising him to drive a goods vehicle to which this paragraph applies;
  - (ii) he was entitled to obtain a driving licence authorising him to drive a goods vehicle to which this paragraph applies or, having previously held a provisional licence, was entitled to obtain a provisional licence authorising him to drive a goods vehicle to which this paragraph applies or would have been (in either case) so entitled but for a current disqualification imposed by order of a court;
  - (iii) he would have been the holder of a valid driving licence authorising him to drive a goods vehicle to which this paragraph applies but for a current disqualification imposed by a conviction or order of a court.
- (2) Nothing in Article 72(2) (restriction on grant of heavy goods vehicle drivers' licences) shall prevent the Department from granting a full licence to drive a heavy goods vehicle if—
- (a) the application for the grant of the licence was made during 1976 by a person to whom this paragraph applies; and
  - (b) the Department is satisfied that in any 12 consecutive months between the beginning of 1975 and 12th August 1976 the applicant had been in the habit during any period or periods of, or amounting in the aggregate to, 6 months of driving a goods vehicle to which this paragraph applies of a qualifying weight;
- but any licence which the Department grants by virtue of this sub-paragraph shall restrict the person to whom it is granted to the driving of a heavy goods vehicle which is not an articulated goods vehicle (within the meaning of Article 79) and the permissible maximum weight of which does not exceed 10 tonnes.
- (3) The reference in sub-paragraph (2) to the driving of a goods vehicle in any period between the beginning of 1975 and 12th August 1976 does not include a reference to the driving of a goods vehicle of a prescribed class or of a goods vehicle while it is being used in prescribed circumstances.
- (4) The Department may by regulations restrict the class of goods vehicle to which this paragraph applies for the driving of which a licence may be granted by virtue of sub-paragraph (2) by reference to the class of vehicle which the applicant for the licence was driving during any period between the beginning of 1975 and 12th August 1976.
- (5) In this paragraph—
- “driving licence” means a licence to drive a motor vehicle granted under Part II of this Order or under Part III of the Road Traffic Act 1972 ;
  - “permissible maximum weight” has the same meaning as it has in Articles 71 to 79;
  - “provisional licence” has the same meaning as it has in Part II of this Order or, as the case requires, in Part III of the Road Traffic Act 1972;
  - “qualifying weight”, in relation to a goods vehicle, means that the vehicle has an unladen weight of<sup>F44</sup> 3,050 kilograms or less and a permissible maximum weight in excess of 7.5 tonnes.
- (6) Any reference in this paragraph to a driving licence authorising a person to drive a goods vehicle to which this paragraph applies shall, in relation to a driving licence granted under Part III

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of the Road Traffic Act 1972, be construed as a reference to a licence so granted authorising him to drive a goods vehicle of a class which—

- (a) is, by virtue of any provision having effect in Great Britain and corresponding with paragraph 11 of Schedule 1 to the Road Traffic (Drivers' Ages and Hours of Work) (Northern Ireland) Order 1976 , a heavy goods vehicle for the purposes of Part IV of the Road Traffic Act 1972 (not having been a heavy goods vehicle for those purposes before the coming into force of that provision); and
- (b) is not an articulated goods vehicle within the meanings of the said Part IV.]

**F44** SR 1982/422

#### *Other savings*

*Para. 4 rep. by 1997 NI 2*

**5.** Notwithstanding the repeal by this Order of section 14 of the Motor Vehicles (Traffic and Regulation) Act (Northern Ireland) 1926 , so much of section 11 of the Summary Jurisdiction (Ireland) Act 1851 and of section 4 of the Char-a-banc Regulation Act (Northern Ireland) 1924 as relates to the offences mentioned in paragraphs 1, 2 and 3 of section 11 of the Summary Jurisdiction (Ireland) Act 1851 shall not apply where any such offence is committed in connection with a public service vehicle.

**6.** Notwithstanding the repeal by this Order of the Road Traffic Act (Northern Ireland) 1970 and Articles 11(4) and 13(3) of the Roads and Road Traffic (Northern Ireland) Order 1978 , that Act shall apply in relation to the offences committed on or before 26th August 1978 as if it had not been amended by Articles 11 and 13 of, and Schedule 1 to, that Order.

**7.** The Driving Licences (Transfer of Functions) (Supplementary Provisions) Order (Northern Ireland) 1973 shall continue to have effect and to be deemed always to have had effect, as if Article 15 of the Road Traffic (Amendment) (Northern Ireland) Order 1973 had been in force when the first-mentioned order was made.

**8.** Article 99 shall have effect, where the accident giving rise to the death or bodily injury in respect of which a payment is made under that Article occurred before 1st April 1980, as if in paragraph (1) of that Article for £1,250 there were substituted “ £200 ”.

#### *Schedule 7—Amendments.*

#### *Schedule 8—Repeals*

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