

SCHEDULES

PROSPECTIVE

SCHEDULE 3

Article 25.

NEW SCHEDULE 2A TO THE ORDER OF 1981

“SCHEDULE 2A

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

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.

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(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
- (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—

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- (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,

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.

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(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.

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

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- (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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