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Road Traffic Act 1988

1988 CHAPTER 52

PART II **U.K.**

CONSTRUCTION AND USE OF VEHICLES AND EQUIPMENT

[^{F1} Prohibition of unfit vehicles]

Textual Amendments

F1 Ss. 69, 69A and cross heading substituted for s. 69 by [Road Traffic Act 1991 \(c. 40, SIF 107:1\), s.12; S.I. 1992/1286, art. 2](#), Sch.

69 Power to prohibit the driving of unfit goods vehicles. **E+W+S**

(1) If—

- (a) on any inspection of a goods vehicle under section 68 of this Act, or
- (b) on an examination of such a vehicle under regulations under section 49 or 61 of this Act,

it appears to a goods vehicle examiner [^{F2}or an authorised inspector] 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 either absolutely or for a specified purpose.

(2) Where a goods vehicle examiner [^{F2}or an authorised inspector] prohibits the driving of a vehicle under subsection (1) above, he must 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 a specified purpose (and if the latter specifying the purpose), and
- (c) stating whether the prohibition is to come into force immediately or at the end of a specified period.

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- (3) A prohibition under subsection (1) above with respect to any vehicle shall, subject to any exemption granted under subsection (6) below, come into force as soon as notice of it has been given under subsection (2) above if, in the opinion of the examiner [^{F3}or authorised inspector], the defects in the vehicle are such that driving it, or driving it for any purpose specified in the notice, [^{F4}will create an immediate risk to public safety][^{F4}would involve danger to any person], and the prohibition shall afterwards continue in force until it is removed under section 72 of this Act.
- (4) In any other case a prohibition under subsection (1) above shall, unless previously removed under section 72 and subject to any exemption under subsection (6) below, come into force at such time not later than ten days from the date of the inspection as seems appropriate to the examiner [^{F3}or authorised inspector]having regard to all the circumstances, and shall afterwards continue in force until it is so removed.
- (5) A prohibition under subsection (1) above may be imposed with a direction making it irremovable unless and until the vehicle has been inspected at an official testing station.
- (6) Where a notice has been given under subsection (2) above any examiner [^{F3}or authorised inspector]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.
- (7) Where any such notice has been given an examiner [^{F3}or authorised inspector]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 [^{F5}or cancel a direction under subsection (5) above with which the prohibition was imposed].

Textual Amendments

- F2** Words inserted (*prosp.*) by Transport Act 1982 (c. 49, SIF 107:1), **ss. 10(3)(c)**, 76(2) (as amended (15.5.1989) by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 2 Pt. I para. 4(2)(c)**)
- F3** Words inserted (*prosp.*) by Transport Act 1982 (c. 49, SIF 107:1), **ss. 10(3)**, 76(2) (as amended (15.5.1989) by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 2 Pt. I para. 4(2)(d)**)
- F4** Words commencing “would involve” substituted (*prosp.*) for words commencing “will create” by Transport Act 1982 (c. 49, SIF 107:1), **ss. 19(1)**, 76(2) (as amended (15.5.1989) by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 2 Pt. I para. 8(a)**)
- F5** Words added by Transport Act 1982 (c. 49, SIF 107:1), **ss. 19(2)**, 76(2) (as amended (15.5.1989) by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 2 Pt. I para. 8(b)**)

VALID FROM 01/07/1992

^{F6}69A Prohibitions conditional on inspection etc. **E+W+S**

- (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.

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- (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 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).]

Textual Amendments

F6 Ss. 69 and 69A substituted (1.7.1992) for s. 69 by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), [s.12](#); [S.I. 1992/1286](#), [art. 2](#), Sch.

Modifications etc. (not altering text)

C1 [S. 69A](#) restricted (1.7.1992) by [S.I. 1992/1217](#), [reg.7](#) (with [reg. 11](#)).

70 Power to prohibit driving of overloaded goods vehicles. **E+W+S**

- (1) Subsections (2) and (3) below apply where a goods vehicle has been weighed in pursuance of a requirement imposed under section 78 of this Act and it appears to—
 - (a) a goods vehicle examiner,
 - (b) a person authorised with the consent of the Secretary of State to act for the purposes of this subsection by—
 - (i) a highway authority other than the Secretary of State, or
 - (ii) a local roads authority in Scotland, or
 - (c) a constable authorised to act for those purposes by or on behalf of a chief officer of police,that the limit imposed by construction and use requirements with respect to any description of weight which is applicable to that vehicle has been exceeded or would be exceeded if it were used on a road.
- (2) The person to whom it so appears may, whether or not a notice is given under section 69(2) of this Act, give notice in writing to the person in charge of the vehicle prohibiting the driving of the vehicle on a road until—
 - (a) that weight is reduced to that limit, and
 - (b) official notification has been given to whoever is for the time being in charge of the vehicle that it is permitted to proceed.
- (3) The person to whom it so appears may also by direction in writing require the person in charge of the vehicle to remove it (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified

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in the direction; and the prohibition shall not apply to the removal of the vehicle or trailer in accordance with that direction.

- (4) Official notification for the purposes of subsection (2) above—
- (a) must be in writing and be given by a goods vehicle examiner, a person authorised as mentioned in subsection (1) above or a constable authorised as so mentioned, and
 - (b) may be withheld until the vehicle has been weighed or reweighed in order to satisfy the person giving the notification that the weight has been sufficiently reduced.
- (5) Nothing in this section shall be construed as limiting the power of the Secretary of State to make regulations under section 71(2) of this Act.

71 Offences in connection with unfit or overloaded goods vehicles. E+W+S

- (1) A person who—
- [^{F7}(a) drives a goods vehicle on a road, or causes or permits a goods vehicle to be so driven, in contravention of a prohibition under section 69 or 70 of this Act, or]
 - [^{F7}(a) knowingly drives a goods vehicle on a road in contravention of a prohibition under this section; or
 - (aa) subject to subsection (1A) below, causes or permits a goods vehicle to be driven on a road in contravention of such a prohibition; or]
 - (b) refuses, neglects or otherwise fails to comply within a reasonable time with a direction under section 70(3) of this Act,
- is guilty of an offence.

[^{F8}(1A) It shall be a defence for a person charged with an offence under subsection (1)(aa) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of any offence under that provision.]

- (2) The Secretary of State may by regulations exempt from subsection (1) above the use of vehicles for such purposes as may be prescribed.

Textual Amendments

- F7** S. 71(1) paras. (a)(aa) substituted (*prosp.*) for para. (a) appearing first by Transport Act 1982 (c. 49, SIF 107:1), ss. 19(3), 76(2) (as amended (15.5.1989) by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, Sch. 2 Pt. I para. 8(c))
- F8** S. 71(1A) inserted (*prosp.*) by Transport Act 1982 (c. 49, SIF 107:1), s. 19(3), 76(2) (as amended (15.5.1989) by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, Sch. 2 Pt. I para. 8(c))

[^{F9}72 Removal of prohibitions. E+W+S

- (1) A prohibition under section 69 or 70 of this Act may be removed by any goods vehicle examiner if he is satisfied that the vehicle is fit for service.
- (2) A person aggrieved by the refusal of an examiner appointed under section 68(1) of this Act to remove a prohibition may make an application to any licensing authority to have the vehicle inspected by a certifying officer appointed under the ^{M1}Public Passenger Vehicles Act 1981.

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- (3) Where any such application is made, the certifying officer, on the matter being referred to him, must, if he considers that the vehicle is fit for service, remove the prohibition.
- (4) If the prohibition has been imposed with a direction under section 69(5) of this Act, a goods vehicle examiner must not remove it unless and until the vehicle has been inspected at an official testing station.
- (5) A person aggrieved by the refusal of a certifying officer 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, and the order shall be binding on the certifying officer.
- (7) Where a goods vehicle examiner removes a prohibition, he must forthwith give notice of the removal—
 - (a) to the owner of the vehicle, and
 - (b) in the case of an authorised vehicle, to the licensing authority by whom the operator’s licence was granted for the vehicle.
- (8) 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 this section may be carried out and may provide and maintain the apparatus for carrying out such examinations.
- (9) In the case of vehicles brought to an official testing station for inspection with a view to removal of a prohibition, the Secretary of State may require the payment of fees for inspection, in accordance with prescribed scales and rates; and
 - (a) payment of the fee may be required to be made in advance,
 - (b) the Secretary of State must ensure that all the scales and rates prescribed for the purposes of this subsection are reasonably comparable with the fees charged by virtue of section 51(1)(h) of this Act in respect of the periodic examination of goods vehicles.
- (10) The Secretary of State may make regulations for prescribing anything which may be prescribed under subsection (5) or (9) above and for regulating the procedure on appeals to him under subsection (5) above.
- (11) A licensing authority may hold such inquiries as he thinks necessary for the proper exercise of his functions under this section.]

Textual Amendments

F9 S. 72 containing subsections (1)-(8) substituted (*prosp.*) for s. 72 containing subsections (1)-(11) by [Transport Act 1982 \(c. 49, SIF 107:1\)](#), [ss. 20, 76\(2\)](#) (as amended (15.5.1989) by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, [Sch. 2 Pt. I para. 9](#))

Marginal Citations

M1 [1981 c. 14.](#)

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F10 72A Official testing stations. E+W+S

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.

Textual Amendments

F10 Ss. 72 and 72A substituted (1.7.1992) for s. 72 by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#). s.15; [S.I. 1992/1286, art. 2](#), Sch.

Modifications etc. (not altering text)

C2 S. 72A restricted (1.7.1992) by [S.I. 1992/1217, reg.7](#) (with [reg. 11](#)).
S. 72A excluded (23.6.1999) by [S.I. 1999/1736, art. 8\(1\)\(b\)\(2\)\(b\)](#)

73 Provisions supplementary to sections 69 to 72. E+W+S

- (1) On giving a notice under section 69(2) or 70(2) of this Act to a person in charge of a vehicle, the person giving the notice must as soon as practicable take steps to bring the contents of the notice—
 - (a) to the attention of the owner of the vehicle if he was not in charge of it at the time when the notice was given, and
 - (b) in the case of an authorised vehicle, to the attention of the licensing authority by whom the operator’s licence was granted for the vehicle.
- (2) A goods vehicle examiner [^{F11}or an authorised inspector] must, in exercising his functions under this section and sections 69 and 70 of this Act, act under the general directions of the Secretary of State and (without prejudice to that) must, in exercising his functions under section 69(6) of this Act, act in accordance with any directions given by the Secretary of State with respect to the exercise of those functions in any particular case.
- (3) Any reference in sections 69 to 72 of this Act to the driving of a vehicle is, in relation to a trailer, a reference to the driving of the vehicle by which the trailer is drawn.
- (4) In this section and section 72 of this Act “authorised vehicle” and “operator’s licence” have the same meaning as in Part V of the ^{M2}Transport Act 1968.

Textual Amendments

F11 Words inserted (*prosp.*) by [Transport Act 1982 \(c. 49, SIF 107:1\)](#), [ss. 10\(3\)\(c\), 76\(2\)](#) (as amended (15.5.1989) by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, [Sch. 2 Pt. I para. 4\(2\)\(c\)](#))

Marginal Citations

M2 1968 c. 73.

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