

## SCHEDULES

### SCHEDULE 2

#### RE-ENACTMENT OR AMENDMENT OF CERTAIN ENACTMENTS NOT BROUGHT INTO FORCE

#### PART III

##### CONSTRUCTION AND USE OF VEHICLES

- 23 In section 47 of the Road Traffic Act 1988, at the end of subsection (4) there is added “or before it is registered by the Secretary of State under paragraph (b) of section 19(1) of the Vehicles (Excise) Act 1971 (registration when Secretary of State receives from a motor dealer particulars of a vehicle to which the dealer has assigned a mark under section 20 of that Act) and after a mark is assigned to it under section 20 of that Act.”
- 24 In section 67(4) of the Road Traffic Act 1988, after “this section” (in the first place where it appears) there is inserted “ and section 67A of this Act”.
- 25 After section 67 of the Road Traffic Act 1988 there is inserted—

##### **“67A Remedying defects discovered on roadside test**

- (1) Where on testing a motor vehicle under section 67 of this Act it appears to an authorised examiner that there is a defect in the vehicle by reason that the vehicle does not comply with a construction and use requirement applicable to the vehicle, he may give a notice in writing to the person who is then the owner of the vehicle—
  - (a) specifying the defect and the requirement in question, and
  - (b) requiring him to give to the Secretary of State within the permitted period a certificate complying with subsection (4) below or a declaration complying with subsection (5) below.
- (2) The powers conferred by subsection (1) above may be exercised whether or not the requirement is one mentioned in section 67(1) above and whether or not proceedings are instituted for a breach of the requirement.
- (3) On testing a motor vehicle under section 67 of this Act an authorised examiner may require the person in charge of the vehicle to state whether he is the owner of the vehicle and, if he is not the owner, the name and address of the owner.
- (4) A certificate under this section must contain—
  - (a) a statement signed by the person to whom the notice under this section was given that he has taken steps to secure—
    - (i) that repairs for the purpose of remedying the defects specified in the notice have been carried out at a vehicle testing station, or

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- (ii) that the vehicle has been examined at such a station for the purpose of ascertaining whether any such repairs have been carried out, and
- (b) a statement signed by a person having power to carry out examinations at such a station under section 67 of this Act—
  - (i) that the signatory has either carried out any such repairs or examined the vehicle for the purpose of ascertaining whether those repairs have been carried out, and
  - (ii) that in his opinion the vehicle complies with the construction and use requirement specified in the notice.
- (5) A declaration under this section—
  - (a) must be signed by the person to whom the notice under this section was given, and
  - (b) must state that he has sold or disposed of his interest in the vehicle to which the notice relates or that he does not intend to use it any further on a road in Great Britain.
- (6) A person who, having been given a notice under this section, fails to give a certificate or declaration under this section within the permitted period to the Secretary of State is guilty of an offence.
- (7) A person who fails to comply with a requirement imposed on him by an authorised examiner under subsection (3) above is guilty of an offence.
- (8) The Secretary of State may by regulations make provision with respect to the examination of vehicles for the purpose of ascertaining whether any such repairs as are mentioned in subsection (4)(a) above have been carried out and with respect to the making of statements under subsection (4)(b) above and, in particular, any such regulations—
  - (a) may prescribe the manner in which, conditions under which and apparatus with which such examinations are carried out and make provision with respect to the maintenance of that apparatus in an efficient state, and with respect to the inspection of premises at which and apparatus with which such examinations are being, or are to be, carried out,
  - (b) may prescribe the manner in which applications may be made for such examinations or for such statements,
  - (c) shall give a right of appeal to any person aggrieved by the refusal of a person mentioned in subsection (4)(b) above to sign a certificate under that paragraph and shall prescribe the manner in which and time within which appeals under the regulations may be brought,
  - (d) may prescribe the information to be supplied and documents to be produced on such an application, examination or appeal,
  - (e) may prescribe the fees to be paid on such an application or appeal, and the repayment of the whole or of part of the fee paid on such appeal where it appears to the Secretary of State that there were substantial grounds for appeal,
  - (f) may prescribe the form of notices, certificates and declarations under this section and of notices of appeal and other documents required for the purposes of this section, and
  - (g) may make different provision for different cases.

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- (9) In this section “permitted period” means a period of twenty-eight days beginning with the date of the notice under this section or such longer period as the Secretary of State may, on the application of the owner of a motor vehicle, specify in writing.

#### **67B Tests to check whether defects have been remedied**

- (1) Where a certificate has been given under section 67A of this Act with respect to a motor vehicle, the Secretary of State may, within the period of thirty days beginning with the date on which he receives the certificate, require the person who is the owner of the vehicle at the time of the requirement to make the vehicle available for a further test by an officer of the Secretary of State.
- (2) For that purpose the Secretary of State may request that person to specify—
- (a) a period of seven days within which the examination is to take place, being a period falling within the period of thirty days beginning with the date of the requirement, disregarding any day in which the vehicle is outside Great Britain, and
  - (b) a place, or if that person thinks fit, a local government area, where the test may conveniently be carried out.

In this subsection “local government area” means, as respects England and Wales, a county district or Greater London and, as respects Scotland, a region or islands area.

- (3) Where a vehicle is made available under subsection (1) above for a further test, any officer of the Secretary of State may test and inspect it for the purpose of ascertaining whether any defect specified in the notice relating to it under section 67A of this Act has been remedied.
- (4) Section 67A of this Act shall apply in relation to a test under this section as it applies in relation to a test under section 67 of this Act but as if references to an authorised examiner were references to an officer of the Secretary of State.
- (5) Paragraphs 3 and 4 of Schedule 2 to this Act shall apply in relation to a test under this section as they apply in relation to a deferred test, but subject to the following modifications—
- (a) references to the preceding provisions of that Schedule shall be read as references to subsection (1) above,
  - (b) in those paragraphs “owner” shall have the meaning given by section 192 of this Act and not the meaning given by paragraph 5 of that Schedule, and
  - (c) the reference in paragraph 3 to premises shall be read as a reference to a place.
- (6) If a person obstructs an officer of the Secretary of State acting under this section, or fails to comply with a requirement of this section or of paragraphs 3 and 4 of Schedule 2 as applied by this section, he is guilty of an offence.
- (7) Any station or apparatus provided and maintained under section 45(6) of this Act by the Secretary of State or a council designated for the purpose of that section may be used by the Secretary of State or that council, as the case may be—

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- (a) for the carrying out of examinations for the purpose of ascertaining whether any such repairs as are mentioned in section 67A(4)(a) of this Act have been carried out, and
  - (b) for the carrying out of tests and inspections under this section.”
- 26 In section 172 of that Act, in subsection (1)(a)(ii) after “ 67(9)” there is inserted “ 67B(6)”.
- 27 In section 174 of that Act, after subsection (3) there is inserted—
- “(3A) A person who knowingly makes a false statement in a certificate or declaration under section 67A of this Act (including that section as applied by section 67B(4) of this Act) is guilty of an offence.”
- 28 In section 91 of the Road Traffic Offenders Act 1988, in paragraph (a) after “ 45” there is inserted “ 67A (including that section as applied by section 67B)”.
- 29 In section 95 of that Act, after “ 67” there is inserted “ 67A(6) and (7) (including the last two subsections as applied by section 67B(4)), 67B”.
- 30 In Part I of Schedule 2 to that Act, after the entry for section 67 of the Road Traffic Act 1988 there is inserted—

“RTA section 67A (including application by section 67B(4))	Failure of owner of apparently defective vehicle to give required certificate or declaration, or failure of person in charge of vehicle being tested to give information.	Summarily. Level 3 on the standard scale.	—	—	—
RTA section 67B	Obstructing further testing of vehicle by Secretary of State’s officer or failing to comply with requirements of RTA section 67B or	Summarily. Level 3 on the standard scale.	—	—	—”

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paragraph  
3 or 4 of  
Schedule 2.

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