

*Status: Point in time view as at 04/12/2011.*

**Changes to legislation:** Goods Vehicles (Licensing of Operators) Act 1995, SCHEDULE 1A is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 1A

#### DETENTION OF VEHICLES USED WITHOUT OPERATOR’S LICENCE

##### Textual Amendments

**F1** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), **Sch. 30**; S.I. 2001/57, art. 3 **Sch. 2 Pt. I**

##### <sup>F2</sup> Interpretation

##### Textual Amendments

**F2** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), **Sch. 30**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I**

- <sup>F3</sup>1 (1) In this Schedule—
- “authorised person” means—
    - (a) an examiner appointed by the Secretary of State under section 66A of the <sup>M1</sup>Road Traffic Act 1988, or
    - (b) a person acting under the direction of such an examiner;
  - “contents”, in relation to a goods vehicle, means any goods carried by that vehicle;
  - “immobilisation device” means any device or appliance which is an immobilisation device for the purposes of section 104 of the <sup>M2</sup>Road Traffic Regulation Act 1984.
- (2) Regulations may, for the purposes of regulations made by virtue of this Schedule, make provision as to the meaning of “owner” as regards a goods vehicle.
- (3) Regulations made by virtue of sub-paragraph (2) may, in particular, provide that the owner of a motor vehicle at a particular time shall be taken to be—
- (a) any person in whose name it is then registered by virtue of the <sup>M3</sup>Vehicle Excise and Registration Act 1994, or
  - (b) any person in whose operator’s licence it is then specified.

##### Textual Amendments

**F3** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), **Sch. 30**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** as amended by S.I. 2001/115, art. 2

##### Marginal Citations

**M1** 1988 c. 52.  
**M2** 1984 c. 27.

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**M3** 1994 c. 22.

#### *F<sup>4</sup> Detention of property*

##### **Textual Amendments**

**F4** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F52</sup> (1) Regulations may provide that where an authorised person has reason to believe that a goods vehicle is being, or has been, used on a road in contravention of section 2, he may detain the vehicle and its contents.
- (2) Regulations made by virtue of sub-paragraph (1) may not authorise a person other than a constable in uniform to stop a vehicle on any road.

##### **Textual Amendments**

**F5** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F63</sup> Regulations may make provision with respect to property detained by virtue of paragraph 2.

##### **Textual Amendments**

**F6** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(2), Sch. 2 Pt. I

#### *F<sup>7</sup> Immobilisation and removal*

##### **Textual Amendments**

**F7** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F84</sup> (1) Regulations may provide that an authorised person may, before a goods vehicle is removed by virtue of paragraph 6—
- (a) fix an immobilisation device to the vehicle in the place where the vehicle has been detained, or
  - (b) move the vehicle, or require it to be moved, to a more convenient place and fix an immobilisation device to the vehicle in that other place.
- (2) Regulations may also provide—
- (a) that, on any occasion when an immobilisation device is fixed to a vehicle, the person fixing the device shall also fix to the vehicle a notice 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 and giving such other information as may be prescribed,
  - (b) that a vehicle to which an immobilisation device has been fixed may only be released from the device by or under the direction of an authorised person, and

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- (c) that an immobilisation notice shall not be removed or interfered with except by or on the authority of an authorised person.

#### Textual Amendments

**F8** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F9</sup>5 (1) Regulations may provide that a person who, without being authorised to do so in accordance with paragraph 4(2)(b), removes or attempts to remove an immobilisation device fixed to a goods vehicle under regulations made by virtue of paragraph 4(1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Regulations may provide that a person who removes or interferes with an immobilisation notice in contravention of regulations made by virtue of paragraph 4(2)(c) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### Textual Amendments

**F9** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F10</sup>6 (1) Regulations may make provision for an authorised person to direct that any property detained by virtue of paragraph 2 be removed and delivered into the custody of a person specified in the direction.
- (2) Regulations may provide that a person may be specified in a direction only if—
- (a) he is a person identified in accordance with prescribed rules, and
  - (b) he has made arrangements with the Secretary of State and agreed to accept delivery of the property in accordance with those arrangements;
- and the arrangements may include the payment of a sum to a person into whose custody any property is delivered.
- (3) Regulations may also provide that, where an authorised person has given a direction by virtue of sub-paragraph (1) in respect of a goods vehicle, he may allow the driver of the vehicle to deliver its contents to their destination or some other suitable place before delivering the vehicle into the custody of the person specified in the direction.

#### Textual Amendments

**F10** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F11</sup>7 (1) Regulations may make provision for informing persons who may be entitled to the property that it has been detained.
- (2) Provision made by virtue of sub-paragraph (1) may, in particular, include provision requiring—
- (a) the publication by an authorised person of such notices as may be prescribed, and
  - (b) the giving of notice by an authorised person to such persons as may be prescribed.

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**Textual Amendments**

**F11** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), **Sch. 30**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I**

*<sup>F12</sup> Return or disposal of vehicle*

**Textual Amendments**

**F12** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), **Sch. 30**; S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I**

[<sup>F13</sup>8 Regulations may make provision authorising a vehicle detained by virtue of paragraph 2 to be returned to the owner, in prescribed circumstances, without the need for any application under paragraph 9.]

**Textual Amendments**

**F13** Sch. 1A para. 8 substituted (26.11.2008 for specified purposes, 9.2.2009 in so far as not already in force) by Local Transport Act 2008 (c. 26), ss. **126(2)**, 134(1)(c), (4); S.I. 2009/107, art. 2(1), **Sch. 1 Pt. 1**

- <sup>F14</sup>9 (1) Regulations shall make provision enabling the owner of a goods vehicle detained by virtue of paragraph 2 to apply to the traffic commissioner for the area in which the vehicle was detained for the return of the vehicle.
- (2) Regulations may, in particular—
- (a) require notice of an application to be given to the traffic commissioner within such period as may be determined in accordance with the regulations, and
  - (b) require notice of an application to be made in such form as may be prescribed.
- (3) Regulations shall make provision as to the grounds upon which the owner may apply for the return of the vehicle.
- (4) Those grounds may include the following grounds—
- (a) that at the time the vehicle was detained the person using the vehicle held an operator’s licence (whether or not authorising the use of the vehicle),
  - (b) that at the time the vehicle was detained the vehicle was not being, and had not been, used in contravention of section 2, or
  - (c) that, although at the time the vehicle was detained it was being, or had been, used in contravention of section 2, the owner did not know that it was being, or had been, so used.

**Textual Amendments**

**F14** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), **Sch. 30**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** as amended by S.I 2001/115, art. 2

- <sup>F15</sup>10 (1) Regulations shall make provision—
- (a) enabling the traffic commissioner to hold a hearing before determining an application by virtue of paragraph 9,

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- (b) requiring him to hold a hearing if requested by a person who claims to be the owner,
  - (c) as to the time within which the hearing must be held, and
  - (d) subject to such provision as may be made by the regulations, for the hearing to be held in public.
- (2) Regulations shall also provide that, if no hearing is held, the traffic commissioner must determine the application within a prescribed time after receiving notice of the application.
- (3) Regulations shall provide that—
- (a) if the traffic commissioner determines that one of the grounds prescribed by virtue of paragraph 9(3) is made out, he must order the person specified in a direction by virtue of paragraph 6(1) to return the goods vehicle to the owner;
  - (b) if the traffic commissioner determines that none of those grounds is made out, the vehicle may be sold or destroyed by the person specified, in such manner as may be prescribed.

**Textual Amendments**

**F15** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3, Sch. 2 Pt. I as amended by S.I. 2001/115, art. 2

[<sup>F16</sup>11 (1) Regulations shall provide for an appeal to the [<sup>F17</sup>Upper Tribunal] against the determination of the traffic commissioner.

<sup>F18</sup>(2).....]

**Textual Amendments**

**F16** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), 275(1), Sch. 30; S.I. 2001/57, art. 3, Sch. 2 Pt. I (as amended by S.I. 2001/115, art. 2)

**F17** Words in Sch. 1A para. 11(1) substituted (1.9.2009) by Transfer of Functions (Transport Tribunal and Appeal Panel) Order 2009 (S.I. 2009/1885), art. 1(1), Sch. 1 para. 23(a)

**F18** Sch. 1A para. 11(2) omitted (1.9.2009) by virtue of Transfer of Functions (Transport Tribunal and Appeal Panel) Order 2009 (S.I. 2009/1885), art. 1(1), Sch. 1 para. 23(b)

<sup>F19</sup>12 Regulations may provide that, if no application is made to the traffic commissioner in accordance with regulations made by virtue of paragraph 9, any goods vehicle detained by virtue of paragraph 2 may be sold or destroyed in such manner as may be prescribed.

**Textual Amendments**

**F19** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3, Sch. 2 Pt. I as amended by S.I. 2001/115, art. 2

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### *F20 Return or disposal of contents of vehicle*

#### **Textual Amendments**

**F20** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F21</sup>13 (1) Regulations may provide that the person specified in a direction by virtue of paragraph 6(1) may retain custody of the contents of a goods vehicle until—
- (a) the contents are returned, in accordance with the regulations, to a person who establishes that he is entitled to them, or
  - (b) the contents are sold or destroyed by the person specified in such manner as may be prescribed.
- (2) Regulations may also make provision as to—
- (a) the period within which a person who claims to be entitled to the contents may make a claim for their return,
  - (b) the requirements to be satisfied by a person who claims to be entitled to the contents (including requirements as to his entitlement), and
  - (c) the manner in which entitlement to such contents is to be determined where there is more than one claim to them.
- (3) The person specified in a direction by virtue of paragraph 6(1) may not sell or destroy the contents unless—
- (a) such steps as may be required by regulations made by virtue of paragraph 7(1) have been taken and no person has, before the expiry of the period referred to in sub-paragraph (2)(a), established an entitlement to the contents, or
  - (b) the condition of the contents requires them to be disposed of without delay.

#### **Textual Amendments**

**F21** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3, Sch. 2 Pt. I as amended by S.I. 2001/115, art. 2

### *F22 Custody of property*

#### **Textual Amendments**

**F22** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F23</sup>14 Regulations shall provide that, subject to the powers of a person specified in a direction by virtue of paragraph 6(1) to sell or destroy any property by virtue of this Schedule, it shall be the duty of that person while any property is in his custody to take such steps as are necessary for the safe custody of that property.

#### **Textual Amendments**

**F23** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2

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## *F24 Proceeds of sale*

### **Textual Amendments**

**F24** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F25</sup>15 (1) Regulations shall provide for the proceeds of sale of any property sold under regulations made by virtue of paragraph 10(3)(b), 12 or 13(1)(b)—
- (a) to be applied towards meeting expenses incurred by any authorised person in exercising his functions by virtue of this Schedule, and
  - (b) in so far as they are not so applied, to be applied in such other manner as may be prescribed.
- (2) Regulations may in particular provide for a sum determined in accordance with the regulations to be paid to a person if—
- (a) he claims after the sale of property under regulations made by virtue of paragraph 10(3)(b), 12 or 13(1)(b) to be or to have been its owner,
  - (b) the claim is made within a prescribed time of the sale, and
  - (c) any other prescribed conditions are fulfilled.

### **Textual Amendments**

**F25** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3, Sch. 2 Pt. I as amended by S.I. 2001/115, art. 2

## *F26 Disputes*

### **Textual Amendments**

**F26** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F27</sup>16 (1) Regulations may make provision about the proceedings to be followed where a dispute occurs as a result of regulations made by virtue of paragraph 13 or 15.
- (2) Provision made by virtue of sub-paragraph (1) may in particular provide—
- (a) for an application to be made to a magistrates' court or (in the case of an application made in Scotland) the sheriff;
  - (b) for a court or the sheriff to order a sum to be paid by the Secretary of State.
- (3) Any application made to the sheriff in accordance with regulations made by virtue of sub-paragraph (2)(a) shall be made by way of summary application.

### **Textual Amendments**

**F27** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

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*F28 Obstruction of authorised person*

**Textual Amendments**

**F28** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F29</sup>17 Regulations may provide that a person who intentionally obstructs an authorised person in the exercise of his powers under regulations made by virtue of paragraph 2 or 6 is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Textual Amendments**

**F29** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

*F30 Offences as to securing possession of property*

**Textual Amendments**

**F30** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I

- <sup>F31</sup>18 (1) Regulations may provide that where—
- (a) a person makes a declaration with a view to securing the return of a goods vehicle under regulations made by virtue of paragraph 10,
  - (b) the declaration is that the vehicle was not being, or had not been, used in contravention of section 2, and
  - (c) the declaration is to the person’s knowledge either false or in any material respect misleading,
- he is guilty of an offence.
- (2) Regulations may provide that a person guilty of such an offence is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.]

**Textual Amendments**

**F31** Sch. 1A inserted (1.2.2001) by 2000 c. 38, s. 262(2), Sch. 30; S.I. 2001/57, art. 3(1), Sch. 2 Pt. I



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