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SCHEDULES

SCHEDULE 1

Sections 8(7) and 37(3)

ENFORCEMENT ACTION UNDER PART 1: PROCEDURE

PART 1

UNILATERAL VARIATION, SUSPENSION OR WITHDRAWAL OF AUTHORISATION

Ordinary procedure

- 1 (1) Before varying, suspending or withdrawing an automated vehicle authorisation under section 8(2) or (3), the Secretary of State must—
 - (a) issue to the authorised self-driving entity a notice under sub-paragraph (2), and
 - (b) consider any representations made by the authorised self-driving entity in response to (and in accordance with) that notice.
- (2) A notice under this sub-paragraph is a notice that—
 - (a) states the Secretary of State’s intention to vary, suspend or withdraw the authorisation,
 - (b) explains the Secretary of State’s reasons for intending to vary, suspend or withdraw the authorisation, and
 - (c) specifies the time by which, and manner in which, representations may be made.
- (3) Sub-paragraph (4) applies if, having complied with sub-paragraph (1), the Secretary of State decides to vary, suspend or withdraw the authorisation.
- (4) The Secretary of State must, in, or in a document issued together with, the notice by which the variation, suspension or withdrawal takes effect, explain the Secretary of State’s reasons for the decision.

Procedure for urgent suspension or temporary variation

- 2 (1) If the Secretary of State considers that the need to suspend an automated vehicle authorisation under section 8(2) or (3) is too urgent for the procedure in paragraph 1 to be followed, that paragraph does not apply and sub-paragraphs (2) and (3) apply instead.
- (2) The Secretary of State must—
 - (a) in, or in a document issued together with, the notice by which the suspension takes effect—
 - (i) explain the Secretary of State’s reasons for suspending the authorisation, and

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- (ii) specify the time by which, and manner in which, representations may be made, and
- (b) as soon as reasonably practicable after suspending the authorisation—
 - (i) consider any representations made by the authorised self-driving entity in response to (and in accordance with) that notice, and
 - (ii) decide whether to lift the suspension.
- (3) If, having complied with sub-paragraph (2), the Secretary of State decides not to lift the suspension, the Secretary of State must issue to the authorised self-driving entity a notice that—
 - (a) states the Secretary of State’s decision, and
 - (b) explains the Secretary of State’s reasons for the decision.
- (4) The preceding sub-paragraphs apply in relation to temporary variation as they apply in relation to suspension; and for that purpose the references to lifting the suspension are to be read as references to reversing the variation.

Appeals

- 3 (1) If an automated vehicle authorisation is varied, suspended or withdrawn under section 8(2) or (3), the authorised self-driving entity may appeal to the Tribunal.
- (2) The grounds on which an appeal may be brought are—
 - (a) in a case where the Secretary of State acted under section 8(2) in reliance on section 8(4)(a), that the failure to meet authorisation requirements did not occur;
 - (b) in a case where the Secretary of State acted under section 8(2) in reliance on section 8(4)(b), that the commission of a traffic infraction did not occur;
 - (c) in a case where the Secretary of State acted under section 8(2) in reliance on section 8(4)(c), that the Secretary of State’s conclusion was based on a mistaken finding of fact;
 - (d) that the decision to vary, suspend or withdraw the authorisation was unreasonable;
 - (e) that the Secretary of State failed to comply with paragraph 1 or 2, or made some other procedural error, in respect of the variation, suspension or withdrawal.
- (3) If satisfied that any of those grounds is made out, the Tribunal must allow the appeal and—
 - (a) direct that the variation, suspension or withdrawal be undone, or
 - (b) remit the matter to the Secretary of State with a direction that the Secretary of State consider, in accordance with the findings of the Tribunal and by such time as the Tribunal specifies, whether to undo the variation, suspension or withdrawal.
- (4) Otherwise, the Tribunal must dismiss the appeal.
- (5) Sub-paragraph (6) applies if—
 - (a) a direction is made under sub-paragraph (3)(b), and
 - (b) by the specified time, the Secretary of State has not undone the variation, suspension or withdrawal.

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- (6) The authorised self-driving entity may on application re-open the appeal on any of the original grounds further to which the direction under sub-paragraph (3)(b) was made; and sub-paragraphs (3) and (4) apply again in relation to the grounds on which the appeal is re-opened.
- (7) In this paragraph—
- (a) references to the undoing of a variation, suspension or withdrawal refer—
 - (i) in the case of variation, to the reversal of the variation,
 - (ii) in the case of suspension, to the lifting of the suspension, or
 - (iii) in the case of withdrawal, to the restoration of the withdrawn authorisation;
 - (b) references to the authorised self-driving entity include, in the case of a withdrawn authorisation, the person who was the authorised self-driving entity immediately before the withdrawal;
 - (c) “the Tribunal” means the First-tier Tribunal, subject to sub-paragraph (8).
- (8) Tribunal Procedure Rules may provide for an appeal under this paragraph to be made to the Upper Tribunal instead of the First-tier Tribunal; and if that is done references to “the Tribunal” are to be read accordingly.

Backstop procedure for cases where authorised self-driving entity defunct

- 4 (1) Sub-paragraph (2) applies if the Secretary of State is satisfied, in relation to an authorised automated vehicle, that—
- (a) there is no longer an authorised self-driving entity, or
 - (b) the authorised self-driving entity is no longer capable of being issued with a notice under paragraph 1 or 2.
- (2) The Secretary of State may suspend or withdraw the automated vehicle authorisation in question without the agreement of the authorised self-driving entity and without complying with paragraph 1 or 2.
- (3) Section 9(6) does not apply to a suspension or withdrawal in reliance on this paragraph, which instead takes effect—
- (a) when notice of it is published by the Secretary of State, or
 - (b) at such later time as is specified in the notice.
- (4) If an automated vehicle authorisation is suspended or withdrawn in reliance on this paragraph, the authorised self-driving entity may appeal to the Tribunal on the ground that the Secretary of State was wrong to be satisfied as described in sub-paragraph (1).
- (5) If satisfied that that ground is made out, the Tribunal must allow the appeal and direct that the suspension or withdrawal be undone; and otherwise the Tribunal must dismiss the appeal.
- (6) Sub-paragraphs (7) and (8) of paragraph 3 apply in relation to sub-paragraphs (4) and (5) of this paragraph as they apply in relation to that paragraph.

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PART 2

CIVIL SANCTIONS

Notices of intent

- 5 (1) Before issuing a compliance notice, redress notice or monetary penalty notice (“the principal notice”) to a regulated body, the Secretary of State must—
- (a) issue to the body a notice of intent, and
 - (b) consider any representations made by the body in response to (and in accordance with) that notice.
- (2) A notice of intent is a notice that—
- (a) states the Secretary of State’s intention to issue the principal notice,
 - (b) sets out the intended terms of that notice,
 - (c) explains the Secretary of State’s reasons for intending to issue that notice, and
 - (d) specifies the time by which, and manner in which, representations may be made.
- (3) A notice of intent may also—
- (a) state the Secretary of State’s intention to issue a costs notice in connection with the principal notice, and
 - (b) give a general indication of the nature of the costs that the Secretary of State is likely to seek to recover by way of the costs notice.

Costs

- 6 (1) If—
- (a) the Secretary of State issues a compliance notice, redress notice or monetary penalty notice (“the principal notice”) to a regulated body, and
 - (b) the notice of intent that preceded the principal notice included the contents set out in paragraph 5(3),
- the Secretary of State may also issue a costs notice to that body.
- (2) A costs notice is a notice requiring the regulated body to pay a sum specified in the notice to the Secretary of State.
- (3) That sum must be no greater than the total of the costs reasonably incurred by the Secretary of State in connection with the principal notice.
- (4) The costs that may be taken into account for that purpose include—
- (a) costs of investigating the matters to which the principal notice relates,
 - (b) administrative costs, and
 - (c) costs of obtaining expert advice (including legal advice).
- (5) A costs notice must—
- (a) particularise the costs relied on in arriving at the sum specified in the notice,
 - (b) explain (if it is not otherwise apparent) how those costs have been calculated, and
 - (c) specify the time by which, and manner in which, the sum must be paid.

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- (6) If a sum payable under a costs notice is not paid in time—
 - (a) the sum (or the unpaid part of it) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838;
 - (b) the Secretary of State may recover the sum (or the unpaid part of it), with the interest, as a civil debt.
- (7) The cancellation of a compliance notice, redress notice, or monetary penalty notice has the effect of cancelling any costs notice issued in connection with it.

Appeals

- 7 (1) A person to whom a compliance notice, redress notice, monetary penalty notice or costs notice is issued may appeal to the Tribunal.
- (2) The grounds on which an appeal may be brought are—
 - (a) in the case of a compliance notice or redress notice—
 - (i) that the failure to meet requirements, or commission of a traffic infraction, on the grounds of which the notice was issued did not occur, or
 - (ii) that the actions specified in the notice, or the time or period specified for taking them, are unreasonable;
 - (b) in the case of a monetary penalty notice—
 - (i) that the failure to meet requirements, or commission of a traffic infraction, on the grounds of which the notice was issued did not occur, or
 - (ii) that the sum or amount specified in the notice, or the time or manner specified for paying it, is unreasonable;
 - (c) in the case of a compliance notice, redress notice or monetary penalty notice issued under section 34(2), 35(2) or 36(2), that the commission of a traffic infraction on the grounds of which the notice was issued was caused as described in section 34(3), 35(3) or 36(3);
 - (d) in the case of a costs notice—
 - (i) that costs relied on in arriving at the sum specified in the notice were not reasonably incurred as described in paragraph 6(3), or
 - (ii) that the time or manner specified for payment is unreasonable;
 - (e) that the Secretary of State failed to comply with a requirement of paragraph 5, or made some other procedural error, in respect of the notice.
- (3) If satisfied that any of those grounds is made out, the Tribunal must allow the appeal and do whichever of the following it considers appropriate—
 - (a) cancel the notice,
 - (b) remit the matter to the Secretary of State with a direction that the Secretary of State consider, in accordance with the findings of the Tribunal and by such time as the Tribunal specifies, whether to cancel or vary the notice under section 37(2), or
 - (c) if the appeal is allowed on a ground in sub-paragraph (2)(b)(ii) or (d), vary the notice.
- (4) Otherwise, the Tribunal must dismiss the appeal.
- (5) Sub-paragraph (6) applies if a direction is made under sub-paragraph (3)(b) and—

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- (a) the Secretary of State varies the notice further to the direction, or
 - (b) by the specified time, the Secretary of State has neither varied nor cancelled the notice.
- (6) The person who appealed against the notice may on application re-open the appeal—
- (a) on any of the original grounds further to which the direction under sub-paragraph (3)(b) was made, or
 - (b) in the case of a variation, on any further ground within sub-paragraph (2) that arises from the variation;
- and sub-paragraphs (3) and (4) apply again in relation to the grounds on which the appeal is re-opened.
- (7) The Tribunal (or any court on a further appeal) may make an interim order suspending the effect of a notice appealed against under this paragraph.
- (8) If a monetary penalty notice includes provision under section 36(6), either the Secretary of State or the person to whom the notice is issued may apply to the Tribunal for a determination of whether an additional sum has become payable under that provision in respect of a particular day.
- (9) In this paragraph, “the Tribunal” means the First-tier Tribunal, subject to sub-paragraph (10).
- (10) Tribunal Procedure Rules may provide for an appeal or application under this paragraph to be made to the Upper Tribunal instead of the First-tier Tribunal; and if that is done references to “the Tribunal” are to be read accordingly.

Assignment of functions to traffic commissioners

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- (1) The Secretary of State may, by regulations, provide for the powers of the Secretary of State under section 34, 35 or 36 or paragraph 6 to be exercisable by a traffic commissioner instead of, or in addition to, the Secretary of State.
 - (2) In relation to the exercise of power by a traffic commissioner further to such regulations, references in this Part of this Act (other than section 43(1)) to the Secretary of State are to be read as including a traffic commissioner.
 - (3) The Secretary of State may, by regulations, provide for a procedure whereby a compliance notice, redress notice, monetary penalty notice or costs notice issued by the Secretary of State may be reviewed by a traffic commissioner on application by the person against whom it is issued.
 - (4) In a case in which such regulations have effect, the right of appeal conferred by paragraph 7 does not arise until the exhaustion of the review procedure.
 - (5) Money received by a traffic commissioner as a result of regulations under this paragraph must be paid into the Consolidated Fund in such manner as the Treasury may direct.