



# Transport Act 1982

## 1982 CHAPTER 49

### PART I

#### THE NATIONAL BUS COMPANY

#### **1 Bus Company's powers of disposal**

- (1) Without prejudice to any powers conferred on them by any other enactment, the National Bus Company (in this Part of this Act referred to as " the Bus Company ") shall have power to provide for the disposal, in such manner as they think fit, of—
  - (a) any shares in or other securities of one of their subsidiaries which are held by the Company or by another of their subsidiaries ; or
  - (b) the whole or any part of the undertaking of, or any property, rights or liabilities of, any of their subsidiaries.
- (2) The Bus Company shall not exercise their powers under subsection (1)(a) above except with the consent of the Secretary of State.
- (3) In exercising their powers under subsection (1)(a) above the Bus Company may, with the consent of the Secretary of State, provide for employees' share schemes to be established in respect of any of their subsidiaries; and any such scheme may provide for the transfer of shares without consideration.
- (4) In this section " employees' share scheme" means a scheme for encouraging or facilitating the holding of shares or debentures in a company by or for the benefit of—
  - (a) the bona fide employees or former employees of the company or of a subsidiary of the company ; or
  - (b) the wives, husbands, widows, widowers or children or step-children under the age of eighteen of such employees or former employees.

#### **2 Provisions supplementary to section 1**

- (1) For the purpose of facilitating the eventual disposal under section 1(1) of this Act of—

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- (a) any part of the undertaking of or any property, rights or liabilities of, the Bus Company, or
- (b) the whole or any part of the undertaking of, or any property, rights or liabilities of, any of their subsidiaries ;

the Company may exercise their powers to establish subsidiaries and to transfer property, rights and liabilities to subsidiaries, notwithstanding the provisions of any enactment which may be taken to limit the purposes for which those powers may be exercised.

- (2) The Bus Company may also, for the purpose mentioned in subsection (1) above, make schemes for the transfer, between the Company and a wholly owned subsidiary of theirs or between one such subsidiary and another, of—
  - (a) any specified property, rights or liabilities ; or
  - (b) all property, rights and liabilities comprised in a specified part of the transferor's undertaking ;
 and a scheme under this subsection may contain such supplementary, incidental and consequential provisions as may appear to the Company to be necessary or expedient.
- (3) Before making a scheme under subsection (2) above which provides for the transfer of rights and liabilities under contracts of employment, the Bus Company shall consult with persons appearing to them to represent the employees concerned.
- (4) A scheme under subsection (2) above shall not come into force until it has been approved by the Secretary of State or until such date as the Secretary of State may, in giving his approval, specify ; and the Secretary of State may approve a scheme either without modifications or with such modifications as, after consultation with the Bus Company, he thinks fit.
- (5) On the coming into force of a scheme under subsection (2) above the property, rights and liabilities in question shall, subject to subsection (6) below, be transferred and vest in accordance with the scheme.
- (6) Schedule 4 to the Transport Act 1968 (supplementary provisions as to certain transfers of property, rights and liabilities) shall apply to any transfer under subsection (5) above subject to—
  - (a) any reference in that Schedule to a transfer by or a vesting by virtue of that Act being construed as a reference to a transfer by or a vesting by virtue of the scheme in question; and
  - (b) the reference in paragraph 13(5) of that Schedule to the relevant provisions of that Act being construed as a reference to the relevant provisions of this Act; and that subsection shall have effect subject to the provisions of that Schedule.

### **3 Powers of Secretary of State to give directions**

- (1) The Secretary of State may give directions to the Bus Company requiring them to exercise their powers under sections 1 and 2 of this Act (including the powers extended by section 2(1) of this Act) for such purposes and in such manner as may be specified in the directions.
- (2) Before giving a direction under this section the Secretary of State shall consult with—
  - (a) the Bus Company ; and

- (b) in the case of a direction requiring the Bus Company to exercise their powers under section 1 of this Act in relation to any of their subsidiaries, every county council in whose area that subsidiary provides bus services.
- (3) It shall be the duty of the Bus Company (notwithstanding any duty imposed on them by section 24(2) or (3) of the Transport Act 1968) to give effect to any directions given under this section.
- (4) In section 27(8) of the Transport Act 1962 (duty to make an annual report) after the words " this Act" there shall be inserted the words " or section 3 of the Transport Act 1982 ".
- (5) In this section—
  - " bus services " has the same meaning as in the Transport Act 1968 ;
  - " county council " includes the Greater London Council.

#### **4 Provision of services for related companies**

- (1) The Bus Company may provide for any related company any of the services which they have power to provide for any of their subsidiaries.
- (2) In this section and section 5 of this Act " related company " means a company as respects which the Bus Company have, or at any time have had, a beneficial interest (either directly or through nominees or subsidiaries) in not less than twenty per cent, of its issued ordinary share capital.

#### **5 Pensions for employees of related companies**

- (1) The Secretary of State may make such orders under section 74 of the Transport Act 1962 (power to make provision about pensions in the nationalised transport industry) in relation to related companies as he could make if those companies were subsidiaries of the Bus Company.
- (2) In exercising with respect to any pension scheme the powers conferred by this section, the Secretary of State shall take into account any representations made by the persons administering the scheme.
- (3) Except on the application of a related company which is not a subsidiary of the Bus Company, no order shall be made by virtue of this section which has the effect of placing the related company or any of its subsidiaries in any worse position; but for this purpose a related company or a subsidiary shall not be regarded as being placed in a worse position because an order provides that any changes in a pension scheme are not to be effected without the consent of the Secretary of State.
- (4) An order such as is mentioned in subsection (3) above which is made without the application of the related company shall not be invalid because it does not have the effect of securing that the related company and its subsidiaries are not placed in any worse position, but except in so far as the related company approves the effect of the order the Secretary of State shall as soon as may be make the necessary amending order.
- (5) Subsections (3) and (4) above have effect only in relation to orders made after such day as may be appointed for the purposes of this section by order made by the Secretary of State, and different days may be so appointed in relation to different related companies.

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- (6) Where an order (the " first order ") applying to a related company has been made under section 74 and at the time when it was made the related company was a subsidiary of the Bus Company, the order shall not apply to the related company when it ceases to be such a subsidiary except where an order made (at any time) by virtue of this section provides for the first order to continue to apply to the related company.
- (7) An order made by virtue of this section may, in particular, authorise the Bus Company or any subsidiary of the Company—
  - (a) to transfer liabilities and obligations under a pension scheme in relation to some (but not all) of the participants in that scheme to another pension scheme (the " other scheme "); and
  - (b) to divide or apportion a pension fund held for the purposes of the scheme between that scheme and the other scheme.
- (8) In this section " participant", in relation to a scheme, means—
  - (a) in relation to a scheme under which benefits are or will be receivable as of right, a person who has pension rights under the scheme (whether he has contributed or not); and
  - (b) in relation to a scheme under which benefits are not or will not be receivable as of right, a person who (whether he is referred to in the scheme as a member, contributor or otherwise) has contributed under the scheme and has pension rights thereunder.

## **6 Stamp duty on certain transactions**

- (1) Stamp duty shall not be chargeable under section 47 of the Finance Act 1973 in respect of—
  - (a) the formation of a subsidiary of the Bus Company ; or
  - (b) any increase in the capital of such a subsidiary ;
 if the transaction concerned is certified by the Treasury as satisfying the requirements of subsections (2) and (3) below.
- (2) A transaction satisfies the requirements of this subsection if it is effected solely for the purpose—
  - (a) of facilitating such an eventual disposal as is mentioned in section 2(1) of this Act; or
  - (b) of complying with a direction given by the Secretary of State under section 3(1) of this Act.
- (3) A transaction satisfies the requirements of this subsection if it is entered into solely in connection with a transfer to be effected under section 2 of this Act, takes place on or before the transfer date and does not give rise to an excess of capital.
- (4) For the purposes of subsection (3) above a transaction gives rise to an excess of capital if—
  - (a) in a case falling within subsection (1)(a) above the total issued capital of the subsidiary exceeds, on the transfer date, the total value of the assets less liabilities transferred; or
  - (b) in a case falling within subsection (1)(b) above, the aggregate amount of the increase of issued capital of the subsidiary exceeds, on that date, that total value;

and in this subsection " issued capital" means issued share capital or loan capital.

## **7 Interpretation of Part I**

In this Part of this Act—

" the Bus Company " means the National Bus Company; and

" subsidiary " shall be construed in accordance with section 154 of the Companies Act 1948 and " wholly owned subsidiary" shall be construed in accordance with section 150(4) of that Act.

## **PART II**

### TESTING, MARKING AND APPROVAL OF VEHICLES

#### *Provision for private-sector plating and testing*

## **8 Private-sector vehicle testing**

- (1) Subject to the following provisions of this section, the Secretary of State may authorise any person to conduct a business (referred to below in this Part of this Act as a vehicle testing business) which consists of or includes the exercise by any person in the course of that business of any of the functions specified in section 9 of this Act (which are concerned with the testing of goods vehicles and other vehicles and related matters, and are accordingly referred to below in this Part of this Act as the testing and surveillance functions).
- (2) The Secretary of State may not under subsection (1) above authorise any person who is for the time being either—
  - (a) the holder of a goods vehicle operator's licence granted under Part V of the Transport Act 1968 ; or
  - (b) the holder of a PSV operator's licence granted under Part II of the 1981 Act;to carry on a vehicle testing business; and any authorisation granted to any person under that subsection shall cease if that person subsequently becomes the holder of any such licence.
- (3) Any person authorised under subsection (1) above is referred to below in this Part of this Act as an approved testing authority.
- (4) The Secretary of State may authorise any individual to exercise all or any of the testing and surveillance functions in the course of a vehicle testing business; and any individual so authorised is referred to below in this Part of this Act as an authorised inspector.
- (5) The Secretary of State may authorise any individual to act under the direction of an authorised inspector for the purposes of or in connection with the exercise by that inspector in the course of a vehicle testing business of any of the testing and surveillance functions ; and any individual so authorised is referred to below in this section as an approved assistant.

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- (6) Any authorisation granted under this section shall be subject to such conditions or limitations in any individual case as the Secretary of State may notify in writing to the person authorised on granting the authorisation or from time to time afterwards.
- (7) Without prejudice to subsection (6) above—
- (a) the Secretary of State may by regulations impose conditions to be complied with by approved testing authorities and approved assistants ; and
  - (b) regulations made under any enactment relating to any - of the testing and surveillance functions may impose conditions to be complied with by authorised inspectors in exercising any of those functions under the regulations.
- (8) The Secretary of State may not without the consent of the person authorised withdraw any authorisation granted under this section except—
- (a) for breach of any condition attached to the authorisation (whether under subsection (6) above or by regulations made under or by virtue of subsection (7) above); or
  - (b) in the case of an authorised inspector or approved assistant, for misconduct or incompetence or other reasonable cause.
- (9) The Secretary of State may not—
- (a) authorise any person under subsection (1) above to carry on a vehicle testing business ; or
  - (b) give to an approved testing authority any notification under subsection (6) above which has the effect of extending the testing and surveillance functions which may be exercised in the course of the business carried on by that authority ;
- unless a document giving the required notice of his proposal to do so has been laid before and approved by a resolution of each House of Parliament.
- (10) The notice required by subsection (9) above is—
- (a) in a case within paragraph (a) of that subsection, a notice indicating that the Secretary of State proposes to authorise the person in question to carry on a vehicle testing business and specifying the testing and surveillance functions within the proposed terms of the authorisation;
  - (b) in a case within paragraph (b) of that subsection, a notice indicating that the Secretary of State proposes to extend the testing and surveillance functions which may be exercised in the course of the business carried on by the approved testing authority in question, and specifying the additional functions.
- (11) The addition of any new functions to the testing and surveillance functions which may be exercised in the course of a vehicle testing business carried on by an approved testing authority is an extension of those functions for the purposes of this section (notwithstanding that other functions may be excluded from exercise in the course of that business at the same time as the new ones are added).

## **9 The testing and surveillance functions**

The functions referred to in section 8(1) of this Act are set out below in this section under the heading of the Act under which they arise (taking references to sections, unless otherwise indicated, as references to sections of that Act).

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#### *Functions under the 1972 Act*

Any determination under regulations made under section 40 (construction and use regulations) of the suitability for operation in any particular manner (in terms of construction or design) of any public service vehicle (as defined by section 1 of the 1981 Act).

The carrying out or supervision of examinations and the issue or refusal of test certificates under regulations made under section 43 (periodical tests of vehicles not subject to goods vehicle tests).

The issue of certificates of temporary exemption under regulations made under section 44(10A) (exemption of certain public service vehicles from requirement of test certificate).

The carrying out or supervision of examinations and the issue or refusal of certificates under regulations made under section 45 (examinations for plating and periodical tests of satisfactory condition of certain goods vehicles).

The issue of certificates of temporary exemption under regulations made under section 46(5)(b) (exemption from requirements with respect to plating certificates and goods vehicle test certificates).

The carrying out or supervision of, or the making of any requirement with respect to, the examination of a vehicle under regulations made under section 50 (regulations for the purposes of type approval requirements).

The cancellation, suspension or amendment, on any examination of a vehicle carried out under regulations made under section 50, of any certificate of conformity or Minister's approval certificate for the vehicle.

The power of entry, inspection and detention of goods vehicles under section 56(2)(a) (spot checks to secure proper maintenance), but only in relation to vehicles brought to the place of inspection in pursuance of a direction given by a goods vehicle examiner or a constable under subsection (4) of that section.

The functions under sections 57 and 58 (imposition and removal of prohibitions on the driving of goods vehicles), with the exception of imposing and removing prohibitions under section 57(7) (vehicles exceeding weight limits).

#### *Functions under the 1981 Act*

The carrying out or supervision of examinations and the issue or refusal of certificates for the purposes of section 6(1)(a) (certificates of initial fitness for public service vehicles) under regulations made under subsection (1A) of that section.

Any functions under section 9 (imposition and removal of prohibitions on the driving of unfit public service vehicles).

The carrying out or supervision of examinations and the issue or refusal of certificates under section 10 (certificates of conformity to type for public service vehicles).

The carrying out or supervision of examinations under regulations made under section 20(2A) (examination of public service vehicles in certain circumstances in the event of failure, damage or alteration).

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The determination under regulations made under section 26 (control of number of passengers) of the number of seated passengers and standing passengers respectively—

- (a) that a vehicle is constructed or adapted or fit to carry; or
- (b) that may be carried in a vehicle.

*Functions under the Road Traffic (Foreign Vehicles) Act 1972*

Any functions under sections 1 and 2 (imposition and removal of prohibitions on driving of foreign vehicles), so far as exercisable in, or on the removal or remedying of, any of the circumstances mentioned in paragraph (a) or (in relation to a contravention of any provision of, or of regulations under, the 1972 Act) paragraph (b) of section 1(2).

## 10 Provisions supplementary to section 8

- (1) To the extent that the terms of his authorisation so provide an authorised inspector shall have the duty to refuse any certificate or impose or remove any prohibition which he has power to refuse or (as the case may be) to impose or remove.
- (2) In section 43 of the 1972 Act (tests of satisfactory condition of vehicles other than goods vehicles to which section 45 applies)—
  - (a) in subsection (3) (persons who may carry out examinations under that section), after the words " ' authorised examiners' )" there shall be inserted the words " by any authorised inspector ";
  - (b) in subsection (6)(g) (keeping of registers of test certificates), after the words " authorised examiners " there shall be inserted the words " and, in the case of examinations carried out by authorised inspectors, by approved testing authorities " ; and
  - (c) in subsection (6)(h) (keeping of records), for the words " and authorised examiners " there shall be substituted the words " authorised examiners and approved testing authorities " .
- (3) The words " or an authorised inspector " shall be inserted in each of the enactments mentioned below in this subsection, at the place indicated in relation to that enactment, that is to say—
  - (a) in section 45(6)(b) of the 1972 Act, after the words " a goods vehicle examiner " ;
  - (b) in section 50(1)(a) of that Act, after the words " a goods vehicle examiner or a public service vehicle examiner " ;
  - (c) in section 57 of that Act, after the words " a goods vehicle examiner " wherever occurring, except in subsections (7) and (7A);
  - (d) in section 6(1)(a) of the 1981 Act, after the words " a certifying officer " ;
  - (e) in section 9 of that Act, after the words " public service vehicle examiner " where they occur in subsections (1), (7) and (8);
  - (f) in section 10(2) of that Act, after the words " the certifying officer " ; and
  - (g) in section 20(6) of that Act, after the words " public service vehicle examiner " ;

and the words " or authorised inspector " shall be inserted after the word " examiner " wherever occurring (otherwise than in the expression " goods vehicle examiner " or " public service vehicle examiner ") in section 57 of the 1972 Act and in section 9 of the 1981 Act.



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- (4) In sections 1 and 2 of the Road Traffic (Foreign Vehicles) Act 1972—
- (a) the words " or an authorised inspector " shall be inserted after the words " an examiner " (in each place where they appear); and
  - (b) the words " or authorised inspector " shall be inserted after the words " the examiner " or " any examiner " (in each place where they appear).
- (5) In section 50(6) of the 1981 Act (which provides for an appeal to the Secretary of State against the refusal of a certifying officer to issue a certificate of initial fitness or a certificate of conformity to type), after the words " a certifying officer " there shall be inserted the words " or an authorised inspector ".
- (6) In section 56(2) of the 1972 Act (powers of entry and inspection), the following words shall be inserted at the end—
- “and an authorised inspector may exercise the powers given by paragraph (a) above in relation to any vehicle brought to the place of inspection in pursuance of a direction under subsection (4) below”.
- (7) The words " or the prescribed testing authority " shall be inserted after the words " the Secretary of State " —
- (a) in section 45(6)(a)(ii) and (d) of the 1972 Act (requirements with respect to the notification of alterations of goods vehicles to the Secretary of State and the specification of alterations required to be so notified in plating certificates);
  - (b) in section 46(3) of that Act (offence to use vehicle where alteration not notified as required by regulations under section 45); and
  - (c) in section 51(3) of that Act (offence to use vehicle where alteration not notified as required by regulations or directions under section 48);
- and after those words (in the second place where they occur) in each of subsections (2), (3) and (4) of section 48 of that Act (requirements and directions with respect to the notification of alterations relevant to type approval or plated weights).
- (8) In section 6 of the 1981 Act (certificates of initial fitness required for use as public service vehicles), the following subsection shall be inserted after subsection (1)—
- “(1A) Without prejudice to the powers of the Secretary of State under section 7 of this Act in relation to the exercise by certifying officers of their functions, regulations may make provision with respect to the examination of vehicles for the purposes of subsection (1)(d) above by or under the direction of authorised inspectors and the issue or refusal of certificates of initial fitness by such inspectors on any such examinations.”.
- (9) In section 20 of that Act (duty of PSV operator to give information about his public service vehicles to traffic commissioners who granted his licence)—
- (a) for the words " to the traffic commissioners who granted the licence " in both subsections (1) and (2) (which relate respectively to failure or damage affecting safety and to structural alterations of vehicles) there shall be substituted the words " in accordance with regulations made by virtue of subsection (2A) below "; and
  - (b) the following subsection shall be inserted after subsection (2)—
- “(2A) Regulations may make provision—

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- (a) for any report or notice required under subsection (1) or (2) above to be made or given to the Secretary of State or to the prescribed testing authority;
  - (b) for requiring a public service vehicle to be submitted for examination in the event of any such failure or damage as is mentioned in subsection (1) above or any such alteration as is mentioned in subsection (2) above; and
  - (c) for the examinations to be carried out under the regulations and, in particular, for authorising any such examination to be carried out by or under the direction of a public service vehicle examiner or an authorised inspector.”.
- (10) References in any regulations made under any enactment relating to any of the testing and surveillance functions before this section comes into operation to a certifying officer or a public service vehicle examiner (within the meaning of the 1981 Act) or to a goods vehicle examiner shall be read as including an authorised inspector authorised to exercise the function in question.
- (11) Subject to the qualification mentioned below, regulations made under—
- (a) section 43, section 45 or section 50 of the 1972 Act; or
  - (b) section 6(1A), 10(4) or 20(2A) of the 1981 Act;
- may include provision for the purpose of securing that private-sector examinations are properly carried out in accordance with the regulations, including (but without prejudice to the generality of the preceding provision) provision for the supervision or review of private-sector examinations by persons authorised for the purpose by or under the regulations.
- No person other than an officer of the Secretary of State may be authorised by or under regulations so made to supervise or review an examination carried out in the course of a vehicle testing business carried on by a person other than his own employer.
- In this subsection "private-sector examination" means, in relation to an examination under regulations so made, an examination carried out by or under the direction of an authorised inspector.
- (12) Without prejudice to any existing power of the Secretary of State to determine the premises at which examinations under section 43 or 45 of the 1972 Act may be carried out—
- (a) the Secretary of State may designate premises as stations where examinations of vehicles of any description subject to examination under either of those sections may be carried out; and
  - (b) regulations under either of those sections may require or authorise examinations of vehicles of any description specified in the regulations to be carried out at premises for the time being designated under this section as premises at which examinations of vehicles of that description may be carried out.

## **11 Approval of public service vehicles as type vehicles by prescribed testing authority**

- (1) In section 10 of the 1981 Act (approval of public service vehicle as a type vehicle and issue of certificates of conformity to type)—

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- (a) in subsections (1) and (2), after the words " the Secretary of State " there shall be inserted the words " or the prescribed testing authority ";
  - (b) in subsection (1), for the word "he" there shall be substituted the words " the Secretary of State or that authority " ; and
  - (c) in subsection (3), for the words from the beginning to " approval of a type vehicle " there shall be substituted the words " Approval of a type vehicle (whether given by the Secretary of State or the prescribed testing authority) may at any time be withdrawn by either of them " .
- (2) At the end of that section there shall be inserted the following subsection—
- “(4) Regulations may make provision with respect to—
- (a) the examination of vehicles for the purposes of this section by or under the direction of authorised inspectors;
  - (b) the approval of vehicles as type vehicles by the prescribed testing authority on such examinations, or the withdrawal of such approval by that authority on such examinations ;
  - (c) the issue or refusal of certificates under subsection(2) above by authorised inspectors ; and
  - (d) the authorisation by the prescribed testing authority of persons to make declarations under subsection (2) above.”.

## **12 Inspections by authorised inspectors in connection with international conventions**

- (1) The Secretary of State may by regulations make provision for the exercise by authorised inspectors, subject to the terms of their authorisations, of such functions in connection with the inspection and certification of vehicles under the TIR Convention and the ADR Convention as may be specified in the regulations.
- (2) The Secretary of State may designate premises as stations where inspections under the TIR Convention and the ADR Convention may be carried out.
- (3) Regulations under this section may provide for fees to be charged in connection with the inspection and certification by authorised inspectors of vehicles under the TIR Convention and the ADR Convention.
- (4) In this section—
  - "the TIR Convention" means the Customs Convention on the International Transport of Goods Under Cover of TIR Garnets (Geneva, 14th November 1975); and
  - " the ADR Convention " means the European Agreement Concerning the International Carriage of Dangerous Goods by Road (Geneva, 30th September 1957).

## **13 Investment by the Secretary of State in Government controlled company interested in former Government testing stations**

- (1) Subject to subsection (2) below, the Secretary of State may at any time, with the consent of the Treasury, incur expenditure for or in connection with—

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- (a) making loans to any company with a present or prospective interest in Government testing station assets on such terms and conditions as he may with the consent of the Treasury determine ; or
  - (b) acquiring shares in or other securities of any such company.
- (2) The company must be a company formed and registered under the Companies Act 1948 in which the Secretary of State holds a controlling interest.
- (3) The Secretary of State may not dispose of any shares or other securities acquired by virtue of this section without the consent of the Treasury.
- (4) The Secretary of State may, with the consent of the Treasury, remit in whole or in part the liability of any company in respect of loans made to the company by virtue of this section.
- (5) So long as the Secretary of State holds a controlling interest in any such company as is mentioned in subsection (1)(a) above—
- (a) he shall, as soon as practicable after any annual accounts of that company are laid before the company in general meeting, lay copies of those accounts and of any documents annexed or attached to those accounts before each House of Parliament; and
  - (b) he shall secure that the Comptroller and Auditor General is accorded any facilities he may from time to time require for inspecting any accounts or accounting records of that company.
- (6) Any expenses incurred by the Secretary of State in consequence of the provisions of this section shall be paid out of money provided by Parliament.
- (7) Any sums received by the Secretary of State as interest on or in repayment of loans made to any company by virtue of this section or in right of, or on the disposal of, any shares or other securities acquired by virtue of this section shall be paid into the Consolidated Fund.
- (8) In this section " annual accounts " means, in relation to any company, accounts prepared in respect of any accounting reference period of the company under section 1 of the Companies Act 1976; and for the purposes of this section a company—
- (a) shall be taken to have a present or prospective interest in Government testing station assets if it holds any estate or interest in or right over former testing station land or owns any former testing station property, or if the Secretary of State proposes to transfer or grant to the company any estate or interest in or right over testing station land or (as the case may be) to transfer to the company any testing station property ; and
  - (b) is one in which the Secretary of State holds a controlling interest if more than one-half of its voting shares are owned by the Secretary of State or by nominees on his behalf.
- (9) In subsection (8) above—
- (a) in paragraph (a) " testing station land" means land held by the Secretary of State as or as part of a goods vehicle testing station provided by the Secretary of State under section 45(9) of the 1972 Act, and " testing station property " means property owned by the Secretary of State for use at any such station ; and

- (b) in paragraph (b) " voting shares " means shares in the company of a class carrying rights to vote in all circumstances at general meetings of the company.

#### **14 Exclusion of security of tenure in case of premises used for vehicle testing business**

- (1) Part II of the Landlord and Tenant Act 1954 (which gives security of tenure to business tenants) shall not apply to a tenancy granted by the Secretary of State in any case where the property comprised in the tenancy is or includes premises which, in accordance with any agreement relating to the tenancy (whether contained in the instrument creating the tenancy or not) are to be occupied for the purposes of a vehicle testing business.
- (2) No enactment or rule providing for relief against forfeiture in case of non-payment of rent or breach of any other covenant or condition shall apply to any such tenancy.
- (3) In this section " tenancy " has the same meaning as in the Landlord and Tenant Act 1954, and the reference in subsection (1) above to a tenancy granted by the Secretary of State shall be construed accordingly.

#### **15 Consultation with representative bodies**

- (1) Before taking any decision affecting any of the matters mentioned in subsection (2) below the Secretary of State shall consult with such organisations appearing to him to be representative of persons engaged in the road transport industry as he thinks fit.
- (2) The matters in question are—
  - (a) the person or persons to whom it is appropriate for the Secretary of State or any company in which he holds a controlling interest (within the meaning of section 13 of this Act) to transfer or grant any estate or interest in or right over any testing station land or former testing station land, or to transfer any testing station property or former testing station property ;
  - (b) the terms on which any such transfer or grant is to be made;
  - (c) the conditions to be complied with by approved testing authorities (generally or in any particular case) and the variation or cancellation of any such conditions ;
  - (d) the arrangements to be made by the Secretary of State for ensuring the maintenance of proper standards with respect to any examinations carried out in the exercise in the course of an approved testing authority's business of any of the testing and surveillance functions ;
  - (e) the withdrawal of, or the imposition of any limitation on, the authorisation of an approved testing authority ;
  - (f) the designation of premises as testing stations and the withdrawal of any such designation ; and
  - (g) the fees to be charged in respect of examinations carried out in the exercise in the course of an approved testing authority's business of any of the testing and surveillance functions.
- (3) In subsection (2) (a) above " testing station land " and " testing station property " have the meanings given by section 13(9)(a) of this Act.

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- (4) Without prejudice to the generality of subsection (2)(c) above, the following in particular are subject to the consultation requirement under subsection (1) above, that is to say, any decisions with respect to the conditions of authorisation of any approved testing authority which relate to the number or situation of any designated testing stations the authority is to be required for the time being to operate.
- (5) The reference in subsection (2)(f) above to the designation of premises as testing stations is a reference to the designation of premises under section 10(12) or 12(2) of this Act.

*Miscellaneous and supplemental*

**16 Special provision with respect to periodical tests of certain public service vehicles**

In section 44 of the 1972 Act (obligatory test certificates for vehicles other than goods vehicles to which section 45 applies), after subsection (10) there shall be inserted the following subsection—

- “(10A) The Secretary of State may by regulations make provision for the issue, in such circumstances as may be prescribed, of a certificate of temporary exemption in respect of a public service vehicle adapted to carry more than eight passengers, exempting that vehicle from the provisions of subsection (1) above for such period as may be specified in the certificate; and in relation to any public service vehicle so adapted—
- (a) subsections (9) and (10) above shall have effect with the substitution of the words " two months " for the words " one month " in each of those subsections ; and
  - (b) subsection (10) above shall have effect with the substitution of the words " last two months " for the words " last month ".

In this subsection " public service vehicle " has the same meaning as in the Public Passenger Vehicles Act 1981.”.

**17 Determination of plated weights by prescribed testing authority for vehicles subject to type approval**

- (1) In section 47 of the 1972 Act (type approval)—
  - (a) in subsections (6), (7)(b) and (10)(a), after the words " the Secretary of State " there shall be inserted the words " or the prescribed testing authority "; and
  - (b) in subsection (6), for the word " he " there shall be substituted the words " the Secretary of State or that authority ".
- (2) The following section shall be substituted for section 49 of the 1972 Act (appeals)—

**“49 Appeals.**

- (1) A person aggrieved by a determination made on behalf of the Secretary of State with respect to a type approval certificate, a certificate of conformity or Minister's approval certificate under section 47 or 48 of this Act, including any determination with respect to design weights or plated weights, may appeal to the Secretary of State.

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*Status: This is the original version (as it was originally enacted).*

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- (2) A person aggrieved by a determination made by the prescribed testing authority with respect to the plated weights for any goods vehicle may appeal to the Secretary of State.
- (3) Any appeal under this section must be made within the prescribed time and in the prescribed manner; and on any such appeal the Secretary of State shall have—
- (a) in a case within subsection (1) above, the like powers and duties as he has on an original application for a type approval or Minister's approval certificate or in respect of the plated weights to be included in a certificate of conformity; and
  - (b) in a case within subsection (2) above, the like powers and duties as he would have had if the application in respect of the plated weights for the goods vehicle concerned had been made to him.
- (4) The Secretary of State may hold an inquiry in connection with any appeal under this section and may appoint an assessor for the purpose of assisting him with the appeal or any such inquiry.”.
- (3) In section 49A(2) of the 1972 Act (exclusion of application to vehicle parts of provisions relating solely to goods vehicles or design weights), the following shall be inserted after paragraph (b)—
- “and
- (c) in section 49, subsection (2)”.
- (4) In section 50 of that Act (regulations for the purposes of sections 47 to 49A and supplementary provisions), the following subsection shall be inserted after subsection (D)—
- “(1A) Without prejudice to the generality of subsection (1) above, regulations made under this section for the purposes of sections 47 to 49A of this Act may provide—
- (a) for the fees to be payable on any application for a determination by the prescribed testing authority of any plated weights for a goods vehicle; and
  - (b) for the issue by the prescribed testing authority of plates for marking on goods vehicles any plated weights, whether determined by that authority or not (including in particular the issue of such plates on behalf of the Secretary of State for the purposes of section 47(8)) and for the fees to be payable to that authority for the issue of any such plates.”;

and in subsection (4)(a) of that section, for the words "subsection (1) above" there shall be substituted the words this section ”.

## **18 Alteration of plated weights for goods vehicles without examination**

The following section shall be inserted after section 51 of the 1972 Act—

### **“51A Alteration of plated weights for goods vehicles without examination.**

- (1) The Secretary of State may by regulations make provision—

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- (a) for the determination, in such circumstances as may be prescribed, of the plated weights (or any of the plated weights) for goods vehicles of any prescribed class otherwise than on an examination under regulations made under section 45 or 50 of this Act; and
  - (b) for the amendment of any approval certificate in force in respect of a vehicle of any such class so as to specify the weights determined for that vehicle under the regulations in place of any weights superseded by those weights or the cancellation of any such certificate and the issue in place of it of a different certificate specifying the weights so determined in place of any weights so superseded.
- (2) Any person aggrieved by a determination of plated weights for a goods vehicle under regulations made under this section may appeal to the Secretary of State and on the appeal the Secretary of State shall cause the vehicle to be examined by an officer of the Secretary of State appointed by him for the purpose and shall make such determination on the basis of the examination as he thinks fit.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section—
  - (a) may provide for the determination of any plated weights for a goods vehicle under the regulations to be made by the Secretary of State or by the prescribed testing authority;
  - (b) may contain the like provisions with respect to any appeal brought by virtue of subsection (2) above and any examination on any such appeal as may be contained in any regulations made by virtue of paragraphs (c), (g) and (h) of section 45(6) of this Act in relation to an appeal under subsection (3) of that section and any examination on any such appeal;
  - (c) may specify the manner in which, and the time before or within which, applications may be made for the determination of plated weights of vehicles under the regulations, and the information to be supplied and documents to be produced on any such application ;
  - (d) may make provision as to the fees to be paid on any such application ;
  - (e) may provide for the issue of replacements for any plates fixed to a vehicle specifying weights superseded by weights specified in an approval certificate amended under the regulations or in any certificate issued under the regulations in place of an approval certificate, and for the payment of a fee for their issue; and
  - (f) may make different provision for different cases.
- (4) In this section " approval certificate " means a plating certificate and any certificate of conformity or Minister's approval certificate specifying any plated weights.
- (5) Any certificate issued in respect of a goods vehicle under regulations made under this section in replacement of an approval certificate of any description mentioned in subsection (4) above—
  - (a) shall be in the form appropriate for an approval certificate of that description ;
  - (b) shall be identical in content with the certificate it replaces, save for any alterations in the plated weights authorised by the regulations ; and



(c) shall be treated for the purposes of this Part of this Act (including this section) and any regulations made under any provision of this Part of this Act as if it were the same certificate as the certificate it replaces ; and any plate so issued in replacement of a plate fixed to the vehicle under section 47 of this Act shall, when fixed to the vehicle, be treated as so fixed under that section.”.

## **19 Prohibitions under section 57 of the 1972 Act**

- (1) In section 57(3) of the 1972 Act (immediate effect, in certain cases, of prohibition to drive unfit goods vehicle), for the words " will create an immediate risk to public safety " there shall be substituted the words " would involve danger to any person " .
- (2) A goods vehicle examiner (or an authorised inspector, if the terms of his authorisation so provide) shall have power to cancel a direction under section 57(4A) (direction making prohibition on driving a vehicle irremovable unless and until the vehicle has been inspected at an official testing station); and accordingly, at the end of subsection (6) of that section (variation of notice of prohibition) there shall be added the words " or cancel a direction under subsection (4A) above with which the prohibition was imposed " .
- (3) In section 57(9) the following paragraphs shall be substituted for paragraph (a) (offence to drive or cause or permit a goods vehicle to be driven in contravention of a prohibition)—
  - “(a) knowingly drives a goods vehicle on a road in contravention of a prohibition under this section ; or
  - (aa) subject to subsection (9A) below, causes or permits a goods vehicle to be driven on a road in contravention of such a prohibition ; or”;

and the following subsection shall be inserted after that subsection—

“(9A) It shall be a defence for a person charged with an offence under subsection (9) (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.”.

## **20 Substitution of new section for section 58 of the 1972 Act**

The following section shall be substituted for section 58 of the 1972 Act—

### **“58 Removal of prohibition of driving unfit goods vehicle.**

- (1) Subject to any subsisting direction under section 57(4A) of this Act, a prohibition under that section may be removed by any goods vehicle examiner or authorised inspector if he is satisfied that the vehicle is fit for service.
- (2) A person aggrieved by the refusal of a goods vehicle examiner or authorised inspector to remove a prohibition may, within the prescribed time, in the prescribed manner and on payment of the prescribed fee, appeal to the Secretary of State; and on any such appeal the Secretary of State shall cause an examination to be made by an officer of the Secretary of State appointed by him for the purpose and shall make such determination on the basis of the examination as he thinks fit.

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- (3) Any determination made by the Secretary of State on an appeal under subsection (2) above shall be binding on the goods vehicle examiner or authorised inspector ; and if the Secretary of State allows the appeal he may repay the whole or part of the fee paid on the appeal.
- (4) Where a goods vehicle examiner or authorised inspector removes a prohibition, he shall forthwith give notice of the removal to the owner of the vehicle and, in the case of an authorised vehicle within the meaning of Part V of the Transport Act 1968, to the licensing authority by whom the operator's licence (within the meaning of Part V) was granted for the vehicle.
- (5) The Secretary of State may provide and maintain 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.
- (6) The Secretary of State may by regulations—
  - (a) prescribe anything which may be prescribed under subsection (2) above ;
  - (b) make provision for regulating the procedure on appeals to him under that subsection; and
  - (c) make provision as to the fees to be paid for inspection of vehicles brought to an official testing station for inspection with a view to removal of a prohibition.
- (7) Payment of a fee prescribed by regulations made by virtue of subsection (6)(c) above may be required (by the Secretary of State or other person to whom in accordance with the regulations it is payable) to be made in advance; and the Secretary of State shall ensure that the scales and rates of fees so prescribed are reasonably comparable with the fees charged under section 45(6) of this Act in respect of the periodic examination of goods vehicles.
- (8) Any removal of a prohibition shall be made by notice in writing.”.

## **21 Amendments with respect to appeals**

- (1) Any examination of a vehicle on an appeal to the Secretary of State under section 43(4) of the 1972 Act (appeal against refusal of test certificate) shall be carried out by an officer of the Secretary of State; and accordingly, in that subsection, after the word " made " there shall be inserted the words " by an officer of the Secretary of State appointed by him for the purpose ".
- (2) Any appeal from a determination made on an examination under regulations made under section 45 of the 1972 Act shall be made direct to the Secretary of State (instead of m the first place to an area mechanical engineer and from him to the Secretary of State); and accordingly—
  - (a) in subsection (3) of that section (appeal to area mechanical engineer), for the words following " may appeal there shall be substituted the words " to the Secretary of State and on the appeal the Secretary of State shall cause the vehicle to be re-examined by an officer of the Secretary of State appointed by him for the purpose and shall make such determination on the basis of the re-examination as he thinks fit "; and
  - (b) subsection (4) of that section (further appeal to the Secretary of State) shall be omitted.

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- (3) In section 9(8) of the 1981 Act (removal of prohibition on driving unfit public service vehicle and application for review by a certifying officer of a public service vehicle examiner's refusal to remove a prohibition) the words from " and a person aggrieved " to the end shall be omitted.
- (4) In section 50 of that Act (appeals to the Secretary of State)—
- (a) after subsection (5) there shall be inserted the following subsection—
- “(5A) A person aggrieved by the refusal of the prescribed testing authority to approve a vehicle as a type vehicle under section 10 of this Act or by the withdrawal by that authority under that section of such approval may appeal to the Secretary of State”;
- (b) after subsection (6) (which provides for an appeal to the Secretary of State against the refusal of a certifying officer to issue a certificate of initial fitness or a certificate of conformity to type) there shall be inserted the following subsections—
- “(6A) A person aggrieved by the refusal of a certifying officer or public service vehicle examiner or by the refusal of an authorised inspector to remove a prohibition under section 9(1) of this Act may appeal to the Secretary of State.
- (6B) On any appeal under subsection (5A), (6) or (6A) above the Secretary of State shall cause an examination of the vehicle concerned to be made by an officer of the Secretary of State appointed by him for the purpose and shall make such determination on the basis of the examination as he thinks fit.”; and
- (c) in subsection (10) (directions of Secretary of State to give effect to his decision on an appeal), for the words from " traffic commissioners " to " certifying officer " (in both places) there shall be substituted the words " authority concerned " and, at the end of that subsection, there shall be inserted the words—
- “In this subsection, " authority concerned" means the traffic commissioners, prescribed testing authority, certifying officer, public service vehicle examiner or authorised inspector, as the case may be”.
- (5) In section 60 of the 1981 Act (general power to make regulations for the purposes of the Act), the following paragraph shall be substituted for paragraph (e) of subsection (1)—
- “(e) the fees to be payable under this Act, the persons liable to pay the same, and the repayment, in such circumstances as may be prescribed, of fees so payable on appeal to the Secretary of State ;”.

## **22 Fees on notification of alterations notifiable under section 45 or 48 of the 1972 Act**

- (1) The following paragraph shall be inserted after paragraph (a) of section 45(6) of the 1972 Act (specific matters with which regulations under that section may deal)—
- “(aa) require the payment of a fee on any notification of any alteration to a vehicle or its equipment which is required by the regulations to be notified to the Secretary of State or the prescribed testing authority ;”.

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- (2) For paragraph (d) of section 50(1) of that Act (power to make provision in relation to examinations, etc., following the notification of alterations notifiable under section 48 of that Act corresponding to provision authorised under certain paragraphs of section 45(6)) there shall be substituted the following paragraph—

“(d) may contain the like provisions with respect to any notification of any such alteration as is mentioned in paragraph (a) above, with respect to any examination of any vehicle in pursuance of regulations made by virtue of that paragraph and with respect to any appeal brought by virtue of paragraph (c) above as may be contained in regulations made by virtue of paragraphs (aa), (b), (c), (g) and (h) of section 45(6) of this Act in relation to the notifications, examinations and appeals there mentioned;”.

### **23 Forgery and misuse of documents etc.**

- (1) A person who, with intent to deceive—
- (a) uses or lends to, or allows to be used by, any other person, a document evidencing the authorisation of a person as an authorised inspector ; or
  - (b) makes or has in his possession any document so closely resembling a document evidencing such an authorisation as to be calculated to deceive ; or
  - (c) in Scotland, forges or alters a document evidencing such an authorisation;
- shall be liable—
- (i) on conviction on indictment, to imprisonment for a term not exceeding two years ;
  - (ii) on summary conviction, to a fine not exceeding the statutory maximum.
- (2) In subsection (1) above, " statutory maximum "—
- (a) as respects England and Wales, means the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (at the passing of this Act £1,000); and
  - (b) as respects Scotland, means the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (at the passing of this Act £1,000).
- (3) In section 169 of the 1972 Act (forgery of documents etc.), in subsection (2) the following paragraph shall be inserted after paragraph (c)—
- “(cc) any notice removing a prohibition under section 57 of this Act;”.
- (4) In section 65 of the 1981 Act (forgery of documents etc.), in subsection (1) the following paragraph shall be inserted after paragraph (b)—
- “(bb) a notice removing a prohibition under section 9 of this Act;”.

### **24 Falsification of documents**

- (1) The following section shall be substituted for section 171 of the 1972 Act (issue of false documents)—

**“171 Falsification of documents.**

- (1) A person shall be guilty of an offence who issues—

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- (a) any such document as is referred to in paragraph (a) or (b) of section 170(6) of this Act;
  - (b) a test certificate, plating certificate, goods vehicle test certificate or certificate of conformity ;
  - (c) a certificate of temporary exemption under regulations made under section 44(10A) or 46(5)(b) of this Act; or
  - (d) a notice removing a prohibition under section 57 of this Act;
- if the document or certificate so issued is to his knowledge false in a material particular.
- (2) A person who amends a certificate of conformity shall be guilty of an offence if the certificate as amended is to his knowledge false in a material particular.
- (3) Expressions used in subsections (1)(b) and (2) above have the same meanings as they respectively have for the purposes of Part II of this Act.”.
- (2) In section 173(2) of that Act (seizure of documents etc. suspected of being false)—
- (a) for the words from " a certifying officer " to " this Act " there shall be substituted the words " a certifying officer or a public service vehicle examiner appointed under the Public Passenger Vehicles Act 1981, an examiner appointed under section 56 of this Act or an authorised inspector under section 8 of the Transport Act 1982 " .; and
  - (b) in paragraph (b), after the words " plating certificates " there shall be inserted the words " notices removing prohibitions under section 57 of this Act " .
- (3) In Part I of Schedule 4 to the 1972 Act (prosecution and punishment of offences)—
- (a) in column one of the entry relating to section 171, for " 171 " there shall be substituted " 171(1) "; and
  - (b) after that entry there shall be inserted the following entry—

“171(2)	Falsely amending certificate of conformity.	Summarily.	£500.	—	—	Section 180 applies.”.
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- (4) The following section shall be inserted after section 66 of the 1981 Act—

**“66A Issue of false documents.**

- (1) If a person issues—
- (a) a certificate of initial fitness under section 6 of this Act; or
  - (b) a notice removing a prohibition under section 9(1) of this Act;
- which he knows to be false in a material particular, he shall be liable on summary conviction to a fine not exceeding £500.
- (2) If a constable, a certifying officer, a public service vehicle examiner or an authorised inspector has reasonable cause to believe that a document produced to him or carried on a vehicle by its driver is a document in relation to which an offence has been committed under this section, he may seize the document.

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- (3) The power to seize a document under subsection (2) above includes power to detach a document carried on a vehicle from the vehicle.”.

## **25 Impersonation of authorised inspector**

A person who, with intent to deceive, falsely represents himself to be an authorised inspector shall be liable on summary conviction to a fine not exceeding £200.

## **26 Interpretation of Part II**

In this Part of this Act—

" the 1981 Act" means the Public Passenger Vehicles Act 1981;

" approved testing authority " and " authorised inspector " have the meanings respectively given by section 8(3) and (4) of this Act;

" business " includes any activity carried on by a body of persons, whether corporate or unincorporate ;

" goods vehicle " has the meaning given by section 196 of the 1972 Act;

" goods vehicle examiner " has the meaning given by section 56(1) of the 1972 Act; and

" vehicle testing business " has the meaning given by section 8(1) of this Act; and references to the testing and surveillance functions are references to the functions specified in section 9 of this Act.

## **PART III**

### **FIXED PENALTIES**

#### *Fixed penalty offences and fixed penalty notices*

## **27 Fixed penalty offences and fixed penalty notices**

- (1) Subject to subsection (3) below, where a constable in uniform finds a person on any occasion and has reason to believe that on that occasion he is committing or has committed a fixed penalty offence, he may give him a fixed penalty notice in respect of the offence.
- (2) Subject to subsection (4) below, where on any occasion a constable has reason to believe in the case of any stationary vehicle that a fixed penalty offence is being or has been committed in respect of it on that occasion, he may affix a fixed penalty notice in respect of the offence to that vehicle.
- (3) A constable may not give a fixed penalty notice to any person under subsection (1) above in respect of an offence which appears to the constable to be an offence involving obligatory endorsement unless—
  - (a) he produces his driving licence for inspection by the constable; and
  - (b) the constable is satisfied, on inspecting the licence, that he would not be liable to be disqualified under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more) if he were convicted of that offence ; and

- (c) he surrenders his driving licence to the constable to be retained and dealt with in accordance with this Part of this Act.
- (4) A constable may not affix a fixed penalty notice to a vehicle under subsection (2) above in any case where the offence in question appears to the constable to be an offence involving obligatory endorsement.
- (5) Subject to subsection (6) below and any limitation or exception mentioned in the entry relating to any enactment in column 2 of Schedule 1 to this Act, any offence in respect of a vehicle committed or punishable under an enactment specified in column 1 of that Schedule is a fixed penalty offence for the purposes of this Part of this Act.
- (6) An offence committed under an enactment so specified is not a fixed penalty offence for those purposes if it is committed by causing or permitting a vehicle to be used by another person in contravention of any provision made or restriction or prohibition imposed by or under any enactment.
- (7) In relation to any enactment specified in column 1 of Schedule 1 to this Act
  - (a) the enactment is contained in the Act referred to in the heading under which that enactment appears;
  - (b) the entry in column 2 of that Schedule broadly describes offences under that enactment, indicating any limitation or exception with respect to the offences under that enactment which are fixed penalty offences for the purposes of this Part of this Act; and
  - (c) the entry in column 3 of that Schedule indicates whether a person's driving licence is subject to endorsement on conviction of any such offence.
- (8) In this Part of this Act, "fixed penalty notice" means a notice offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty in accordance with this Part of this Act.
- (9) For the purposes of this Part of this Act an offence is an offence involving obligatory endorsement if—
  - (a) it is an offence under an enactment specified in column 1 of Schedule 1 to this Act in relation to which there appears in column 3 of that Schedule the word "obligatory" or the word "obligatory" qualified by conditions relating to the offence; and
  - (b) where the word "obligatory" is so qualified, the conditions are satisfied in the case of that offence.

## **28 Fixed penalty notices given at a police station**

- (1) In any case where—
  - (a) a constable in uniform finds a person on any occasion and has reason to believe that on that occasion he is committing or has committed a fixed penalty offence;
  - (b) the offence appears to the constable to be an offence involving obligatory endorsement; and
  - (c) the person concerned does not produce his driving licence for inspection by the constable;

the constable may give him a notice stating that if, within five days after the notice is given, he produces the notice together with his driving licence in person to a constable at the police station specified in the notice (being a police station chosen by the person

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concerned) and the requirements of subsection (2)(a) and (b) below are met he will then be given a fixed penalty notice in respect of the offence.

- (2) If a person to whom a notice has been given under subsection (1) above produces the notice together with his driving licence in person to a constable at the police station specified in the notice within five days after the notice was so given to him and the following requirements are met, that is—
- (a) the constable is satisfied, on inspecting the licence, that he would not be liable to be disqualified under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more) if he were convicted of that offence; and
  - (b) he surrenders his driving licence to the constable to be retained and dealt with in accordance with this Part of this Act;
- the constable shall give him a fixed penalty notice in respect of the offence to which the notice under subsection (1) above relates.
- (3) A notice under subsection (1) above shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.
- (4) This section does not apply in respect of offences committed in Scotland and a notice under this section may not specify a police station in Scotland.

## **29 Further provisions with respect to fixed penalty offences and notices**

- (1) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates until the end of the period of twenty-one days following the date of the notice or such longer period (if any) as may be specified in the notice (referred to below in this Part of this Act as the suspended enforcement period in respect of the offence).
- (2) The Secretary of State may by order provide for offences to become or (as the case may be) to cease to be fixed penalty offences for the purposes of this Part of this Act, and may make such modifications of the provisions of this Part of this Act as appear to him to be necessary for the purpose.
- (3) The fixed penalty for a fixed penalty offence shall be—
- (a) the amount appropriate in accordance with subsection (4) below in the case of that offence ; or
  - (b) one-half of the maximum amount of the fine to which a person committing that offence would be liable on summary conviction;
- whichever is the less.
- (4) Subject to subsection (5) below, the amount appropriate in the case of a fixed penalty offence is—
- (a) £20 in the case of any offence involving obligatory endorsement; and
  - (b) £10 in any other case.
- (5) The Secretary of State may by order substitute a different amount or amounts for either or both of the amounts for the time being specified in subsection (4) above.
- (6) A fixed penalty notice—



- (a) shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence;
  - (b) shall state the period which, by virtue of subsection (1) above, is the suspended enforcement period in respect of the offence, the amount of the fixed penalty and the justices' clerk or, in Scotland, the clerk of court to whom and the address at which the fixed penalty may be paid; and
  - (c) shall, when it is given under section 27(1) of this Act in respect of an offence committed in Scotland, be in the prescribed form.
- (7) A notice affixed to a vehicle under section 27(2) of this Act shall not be removed or interfered with except by or under the authority of the driver or person in charge of the vehicle or the person liable for the offence in question; and any person contravening this subsection shall be liable on summary conviction to a fine not exceeding £50.

### **30 Effect where fixed penalty notice is given to the alleged offender**

- (1) This section applies where a fixed penalty notice relating to an offence has been given to any person under section 27(1) or 28(2) of this Act; and references below in this section to the recipient are references to the person to whom that notice was given.
- (2) No proceedings shall be brought against the recipient for the offence to which the fixed penalty notice relates unless before the end of the suspended enforcement period he has given notice requesting a hearing in respect of that offence in the manner specified in the fixed penalty notice.
- (3) Where—
  - (a) the recipient has not given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates in the manner so specified; and
  - (b) the fixed penalty has not been paid in accordance with this Part of this Act before the end of the suspended enforcement period;a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 36 of this Act for enforcement against the recipient as a fine.

### **31 Effect where fixed penalty notice is affixed to the vehicle**

- (1) This section applies where a fixed penalty notice relating to an offence has been affixed to a vehicle under section 27(2) of this Act.
- (2) Subject to subsection (3) below, where the fixed penalty has not been paid in accordance with this Part of this Act within the suspended enforcement period, a notice under this section (referred to below in this Part of this Act as a notice to owner) may be served by or on behalf of the chief officer of police on any person who appears to him (or to any person authorised to act on his behalf for the purposes of this section) to be the owner of the vehicle.
- (3) Subsection (2) above does not apply where before the end of the suspended enforcement period any person has given notice requesting a hearing in respect of the offence in the manner specified in the fixed penalty notice, and the notice so given contains a statement by that person to the effect that he was the driver of the vehicle at the time when the offence is alleged to have been committed (referred to below in this Part of this Act as the time of the alleged offence).

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- (4) A notice to owner—
- (a) shall give particulars of the alleged offence and of the fixed penalty concerned;
  - (b) shall state the period which, by virtue of subsection (9) below, is the period allowed for response to the notice ; and
  - (c) shall indicate that, if the fixed penalty is not paid before the end of that period, the person on whom the notice is served is asked to furnish before the end of that period to the chief officer of police by or on whose behalf the notice was served a statutory statement of ownership (as defined in Part I of Schedule 3 to this Act).
- (5) A person on whom a notice to owner relating to the offence is served under subsection (2) above shall not be liable in respect of the offence by virtue of this section if—
- (a) he was not the owner of the vehicle at the time of the alleged offence; and
  - (b) he furnishes a statutory statement of ownership to that effect in response to the notice before the end of the period mentioned in subsection (4) above.
- (6) Except as provided by subsection (5) above, and subject to section 32 of this Act, where—
- (a) a notice to owner relating to the offence has been served on any person under subsection (2) above before the end of the period of six months beginning with the day on which the fixed penalty notice was affixed to the vehicle; and
  - (b) the fixed penalty has not been paid in accordance with this Part of this Act before the end of the period allowed under this section for response to the notice to owner;
- proceedings may be brought in respect of the offence against the person on whom the notice to owner was served.
- (7) Subject to subsection (8) below—
- (a) for the purposes of the institution of proceedings by virtue of subsection (6) above against any person on whom a notice to owner has been served ; and
  - (b) in any proceedings brought by virtue of that subsection against any such person ;
- it shall be conclusively presumed (notwithstanding that that person may not be an individual) that he was the driver of the vehicle at the time of the alleged offence and, accordingly, that acts or omissions of the driver of the vehicle at that time were his acts or omissions.
- (8) That presumption shall not apply in any proceedings brought against any person by virtue of subsection (6) above if, in those proceedings, it is proved that at the time of the alleged offence the vehicle was in the possession of some other person without the consent of the accused.
- (9) The period allowed for response to a notice to owner is the period of twenty-one days from the date on which the notice is served, or such longer period (if any) as may be specified in the notice.

## **32 Punishment without prosecution in cases within section 31**

- (1) Proceedings in respect of an offence to which a notice to owner relates shall not be brought against the person on whom the notice to owner was served unless he has given notice requesting a hearing in respect of that offence in the manner indicated by

the notice to owner before the end of the period allowed under section 31 of this Act for response to the notice to owner.

- (2) Subject to subsection (5)(b) below, where apart from this section proceedings in respect of an offence to which a notice to owner relates would lie by virtue of section 31(6) of this Act against the person on whom that notice was served, a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 36 of this Act for enforcement against that person as a fine.
- (3) A notice to owner relating to any offence shall indicate that the person on whom it is served may, before the end of the period allowed under section 31 of this Act for response to the notice, either—
  - (a) give notice requesting a hearing in respect of the offence in the manner indicated by the notice; or
  - (b) if he was not the driver of the vehicle at the time of the alleged offence and a person purporting to be the driver wishes to give notice requesting a hearing in respect of the offence, furnish together with a statutory statement of ownership furnished as requested in that notice a statutory statement of facts (as defined by Part II of Schedule 3 to this Act) which has effect by virtue of that Schedule as a notice requesting a hearing in respect of the offence given by the driver.
- (4) In any case where a notice to owner relating to an offence may be served under section 31 of this Act, no proceedings shall be brought in respect of the offence against any person other than a person on whom such a notice has been served, unless he is identified as the driver of the vehicle at the time of the alleged offence in a statutory statement of facts furnished in pursuance of subsection (3)(b) above by a person on whom such a notice has been served.
- (5) In any case where a person on whom a notice to owner relating to any offence has been served furnishes a statutory statement of facts in pursuance of subsection (3) (b) above—
  - (a) any notice requesting a hearing in respect of the offence he purports to give on his own account shall be of no effect; and
  - (b) the sum mentioned in subsection (2) above may not be registered for enforcement against him as a fine unless no summons or, in Scotland, complaint in respect of the offence in question is served on the person identified in that statement as the driver within the period of two months immediately following the period allowed under section 31 of this Act for response to the notice to owner.
- (6) Once any sum determined by reference to the fixed penalty for an offence has been registered by virtue of this section under section 36 of this Act for enforcement as a fine against a person on whom a notice to owner relating to that offence has been served, no proceedings shall be brought against any other person in respect of that offence.

### **33 Payment of fixed penalties, effect of payment and supplementary provisions**

- (1) Payment of a fixed penalty under this Part of this Act shall be made to such justices' clerk or, in Scotland, clerk of court as may be specified in the fixed penalty notice relating to that penalty and, in England and Wales, sums paid by way of fixed penalty for an offence shall be treated for the purposes of section 61 of the Justices of the Peace Act 1979 (application of fines and fees) as if they were fines imposed on summary conviction for that offence.

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- (2) References below in this Part of this Act, in relation to any fixed penalty or fixed penalty notice, to the fixed penalty clerk are references to the clerk specified in accordance with subsection (1) above in the fixed penalty notice relating to that penalty or (as the case may be) in that fixed penalty notice.
- (3) Without prejudice to payment by any other method, payment of a fixed penalty under this Part of this Act may be made by properly addressing, pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) and, unless the contrary is proved, shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post. A letter is properly addressed for the purposes of this subsection if it is addressed to the fixed penalty clerk at the address specified in the fixed penalty notice relating to the fixed penalty as the address at which the fixed penalty may be paid.
- (4) In any proceedings a certificate—
  - (a) that payment of a fixed penalty was or was not received, by a date specified in the certificate, by the fixed penalty clerk; or
  - (b) that a letter containing an amount sent by post in payment of a fixed penalty was marked as posted on a date so specified;shall, if the certificate purports to be signed by the fixed penalty clerk, be evidence (and, in Scotland, sufficient evidence) of the facts stated.
- (5) Proceedings may not be brought against any person in respect of an offence to which a fixed penalty notice relates if the fixed penalty is paid in accordance with this Part of this Act before the end of the suspended enforcement period.
- (6) Proceedings in respect of an offence to which a notice to owner relates may not be brought against any person identified as the driver of the vehicle in a statutory statement of facts furnished in response to the notice if the fixed penalty is paid in accordance with this Part of this Act before the end of the period allowed for response to that notice to owner under section 31 of this Act.
- (7) Where, in England and Wales, a justices' clerk for a petty sessions area comprised in the area of one responsible authority (within the meaning of section 59 of the Justices of the Peace Act 1979) discharges functions in connection with a fixed penalty for an offence alleged to have been committed in a petty sessions area comprised in the area of another such authority—
  - (a) that other authority shall make to the first-mentioned authority such payment in connection with the discharge of those functions as may be agreed between them or, in default of such agreement, as may be determined by the Secretary of State ; and
  - (b) any such payment between responsible authorities shall be taken into account in determining for the purposes of subsection (4) of section 59 of that Act the net cost to those authorities respectively of the functions referred to in subsection (1) of that section.
- (8) Subsection (7) above does not apply to functions discharged in connection with a fixed penalty on or after the registration of a sum determined by reference to the penalty under section 36 of this Act.

### **34 Endorsement of licences without hearings**

- (1) Subject to subsection (2) below, where a person (" the licence holder ") has surrendered his driving licence to a constable on the occasion when he was given a fixed penalty notice under section 27(1) or 28(2) of this Act, his licence may be endorsed in accordance with this section without any order of a court.
- (2) A person's licence may not be endorsed under this section if before the end of the suspended enforcement period he gives notice requesting a hearing in respect of the offence to which the fixed penalty notice relates in the manner specified in the fixed penalty notice, unless proceedings against him in respect of the offence are nevertheless excluded by section 33(5) of this Act by payment of the fixed penalty before the end of that period.
- (3) A licence surrendered in accordance with section 27 or 28 of this Act shall be sent to the fixed penalty clerk.
- (4) Where the fixed penalty is paid before the end of the suspended enforcement period, the fixed penalty clerk shall thereupon endorse the relevant particulars on the licence and return it to the licence holder.
- (5) Where any sum determined by reference to the fixed penalty is registered under section 36 of this Act for enforcement against the licence holder as a fine, the fixed penalty clerk shall endorse the relevant particulars on the licence and return it to the licence holder—
  - (a) if he is himself the clerk who registers that sum, on registration of that sum ; and
  - (b) in any other case, on being notified of the registration by the clerk who registers that sum.
- (6) References above in this section to the relevant particulars are references to—
  - (a) particulars of the offence, including the date when it was committed; and
  - (b) the number of penalty points shown in respect of the offence in Schedule 7 to the Transport Act 1981 (points to be taken into account in determining disqualification for repeated offences).
- (7) On the endorsement of a person's licence under this section he shall be treated for the purposes of—
  - (a) the provisions of section 101(1) of the 1972 Act (power of court to order endorsement) with respect to evidence of any conviction ordered to be endorsed under that section;
  - (b) subsections (5) to (8) of that section (effect and removal of endorsement);
  - (c) section 182(2A) of that Act (admissibility in evidence of records maintained by the Secretary of State);
  - (d) section 19 of the Transport Act 1981 (disqualification for repeated offences); and
  - (e) the Rehabilitation of Offenders Act 1974 ;as if he had been convicted of the offence and the endorsement had been made in pursuance of an order made on his conviction by a court under section 101(1) of the 1972 Act, and as if the particulars of the offence endorsed by virtue of subsection (6) (a) above were particulars of his conviction of that offence.
- (8) In relation to any endorsement of a person's licence under this section—

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- (a) the reference in section 101(6) of the 1972 Act to the order for endorsement; and
- (b) the references in section 182(2A) of that Act to any order made on a person's conviction;

shall be read as references to the endorsement itself.

(9) Where

- (a) in endorsing any person's licence under this section the fixed penalty clerk is deceived as to whether endorsement under this section is excluded by section 41(2) of this Act by virtue of the fact that the licence holder would be liable to be disqualified under section 19(2) of the Transport Act 1981 if he were convicted of the offence; and
- (b) the deception constituted or was due to an offence committed by the licence holder ;

then, if he is convicted of that offence, the court by or before which he is convicted shall have the same powers and duties as it would have had if it had convicted him of the offence of which particulars were endorsed under this section.

- (10) On endorsing a person's licence under this section the fixed penalty clerk shall send notice of the endorsement and of the particulars endorsed to the Secretary of State.

### **35 Licence receipts**

- (1) Where a person surrenders his driving licence to a constable on receiving a fixed penalty notice given to him under section 27(1) or 28(2) of this Act, the constable shall issue a receipt for the licence under this section.
- (2) In any case within subsection (1) above the fixed penalty clerk may issue a new receipt for the licence on the application of the licence holder.
- (3) A receipt issued under this section shall cease to have effect—
  - (a) if issued by a constable, on the expiration of the period of one month beginning with the date of issue or such longer period as may be prescribed ; and
  - (b) if issued by the fixed penalty clerk, on such date as he may specify in the receipt;
 or, if earlier, on the return of the licence to the licence holder.
- (4) A person shall not be guilty of an offence under section 101(4) of the 1972 Act by virtue of not having posted his licence or caused it to be delivered as mentioned in that subsection or by virtue of not producing it to the court for endorsement if—
  - (a) he has instead posted or caused to be delivered as so mentioned a current receipt for the licence issued under this section or surrenders any such receipt to the court at the hearing; and
  - (b) he produces the licence to the court immediately on its return.
- (5) A person shall not be guilty of an offence under section 103(2) of that Act by virtue of not producing his licence to the court as required under that subsection if instead—
  - (a) he surrenders to the court a current receipt for the licence issued under this section ; and
  - (b) he produces the licence to the court immediately on its return.

- (6) A person shall not be guilty of an offence under section 161(4) of that Act by virtue of not producing his licence on being required to do so by a constable under any provision of that section if either—
- (a) on the occasion when the production of his licence is so required he produces a current receipt for the licence issued under this section ; or
  - (b) within five days after the production of his licence was so required he produces any such receipt in person at such police station as may have been specified by him on that occasion ;
- and in either case, if required to do so, he produces the licence in person, immediately on its return, at such police station as may have been so specified.
- (7) Where a person is not in possession of his driving licence in consequence of the fact that he has surrendered the licence as mentioned in subsection (1) above, he shall not be taken to be in breach of any duty under section 87 or 89 of that Act (revocation on disability and in certain other circumstances) to deliver his licence forthwith to the Secretary of State if he delivers his licence to the Secretary of State immediately on its return.

### **36 Registration of sums payable in default for enforcement as fines**

- (1) The following provisions of this section apply where by virtue of section 30(3) or 32(2) of this Act a sum determined by reference to the fixed penalty for any offence (referred to below in this section as a sum payable in default) may be registered under this section for enforcement against any person (referred to below in this section as the defaulter) as a fine.
- (2) Subject to subsection (3) below, the chief officer of police may issue a certificate in respect of any sum payable in default stating that the sum is registrable under this section for enforcement against the defaulter as a fine (referred to below in this section as a registration certificate).
- (3) Subsection (2) above shall not apply where the fixed penalty notice in question was given to the defaulter under section 27(1) of this Act in respect of an offence committed in Scotland; but in any such case the fixed penalty clerk—
- (a) if the defaulter appears to him to reside within the jurisdiction of the court of summary jurisdiction of which he is himself the clerk, shall register the sum payable in default for enforcement as a fine by that court;
  - (b) in any other case, shall issue a registration certificate in respect of that sum.
- (4) Where the chief officer of police or the fixed penalty clerk issues a registration certificate under this section, he shall cause it to be sent—
- (a) if the defaulter appears to him to reside in England and Wales, to the clerk to the justices for the petty sessions area in which the defaulter appears to him to reside; and
  - (b) if the defaulter appears to him to reside in Scotland, to the clerk of a court of summary jurisdiction for the area in which the defaulter appears to him to reside.
- (5) A registration certificate issued under this section in respect of any sum payable in default shall—
- (a) give particulars of the offence to which the fixed penalty notice relates;

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- (b) indicate whether registration is authorised under section 30(3) or 32(2) of this Act; and
  - (c) state the name and last known address of the defaulter and the amount of the sum payable in default.
- (6) Subject to subsection (7) below—
- (a) where the clerk to the justices for a petty sessions area receives a registration certificate issued under this section in respect of any sum payable in default, he shall register that sum for enforcement as a fine in that area by entering it in the register of a magistrates' court acting for that area ;
  - (b) where the clerk of a court of summary jurisdiction receives a registration certificate so issued, he shall register the sum payable in default for enforcement as a fine by that court.
- (7) The clerk receiving a registration certificate so issued shall not be required by subsection (6) above to register the sum payable in default if it appears to him that the defaulter does not reside in the petty sessions area or (as the case may be) within the jurisdiction of the court of summary jurisdiction in question ; but in any such case he shall cause the certificate to be sent—
- (a) if the defaulter appears to him to reside in England and Wales, to the clerk to the justices for the petty sessions area in which the defaulter appears to him to reside; and
  - (b) if the defaulter appears to him to reside in Scotland, to the clerk of a court of summary jurisdiction for the area in which the defaulter appears to him to reside ;
- and that subsection shall apply accordingly on receipt by that clerk of the certificate as it applies on receipt by the clerk to whom it was originally sent.
- (8) Where the clerk to the justices for a petty sessions area or the clerk of a court of summary jurisdiction registers any sum under this section for enforcement as a fine, he shall thereupon give notice of registration to the defaulter, specifying the amount of that sum and giving the information with respect to the offence and the authority for registration included in the registration certificate by virtue of subsection (5) (a) and (b) above or (in a case within subsection (3) (a) above) the corresponding information.
- (9) For the purposes of this section, where the defaulter is a body corporate, the place where that body resides and the address of that body shall be either of the following—
- (a) the registered or principal office of that body ; and
  - (b) the address which, with respect to the vehicle concerned, is the address recorded in the record kept under the Vehicles (Excise) Act 1971 as being that body's address.
- (10) On the registration of any sum in a magistrates' court or a court of summary jurisdiction by virtue of this section any enactment referring (in whatever terms) to a fine imposed or other sum adjudged to be paid on the conviction of such a court shall have effect in the case in question as if the sum so registered were a fine imposed by that court on the conviction of the defaulter on the date of the registration.
- (11) Accordingly, in the application by virtue of this section of the provisions of the Magistrates' Courts Act 1980 relating to the satisfaction and enforcement of sums adjudged to be paid on the conviction of a magistrates' court, section 85 of that Act (power to remit a fine in whole or in part) is not excluded by subsection (2) of that section (references in that section to a fine not to include any other sum adjudged to



be paid on a conviction) from applying to a sum registered in a magistrates' court by virtue of this section.

### **37 Registration and endorsement invalid in certain circumstances**

- (1) This section applies where—
  - (a) a person who has received notice of the registration of a sum under section 36 of this Act for enforcement against him as a fine makes a statutory declaration to the effect mentioned in subsection (2) or (3) below (as the case may require); and
  - (b) that declaration is served within twenty-one days of the date on which the person making it received notice of the registration on the clerk of the relevant court.
- (2) In a case where the registration was made by virtue of section 30(3) of this Act, the statutory declaration must state either—
  - (a) that the person making the declaration was not the person to whom the relevant fixed penalty notice was given; or
  - (b) that he gave notice requesting a hearing in respect of the alleged offence as permitted by the fixed penalty notice before the end of the suspended enforcement period.
- (3) In a case where the registration was made by virtue of section 32(2) of this Act, the statutory declaration must state either—
  - (a) that the person making the declaration did not know of the fixed penalty concerned or of any fixed penalty notice or notice to owner relating to that penalty until he received notice of the registration ; or
  - (b) that he was not the owner of the vehicle at the time of the alleged offence of which particulars are given in the relevant notice to owner and that he has a reasonable excuse for failing to comply with that notice; or
  - (c) that he gave notice requesting a hearing in respect of that offence as permitted by the relevant notice to owner before the end of the period allowed under section 31 of this Act for response to that notice.
- (4) In any case within subsection (2)(a) above the relevant fixed penalty notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void.
- (5) Where in any such case the person to whom the relevant fixed penalty notice was given surrendered a driving licence held by the person making the declaration, any endorsement of that licence made under section 34 of this Act in respect of the offence in respect of which that notice was given shall be void.
- (6) In any case within subsection (2)(b) above—
  - (a) the registration, any proceedings taken before the declaration was served for enforcing payment of the sum registered, and any endorsement, in respect of the offence in respect of which the relevant fixed penalty notice was given, made under section 34 of this Act before the declaration was served, shall be void ; and
  - (b) the case shall be treated after the declaration is served as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.

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- (7) In any case within subsection (3)(a) or (b) above, the relevant notice to owner, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void, but without prejudice, in a case within paragraph (a) of that subsection, to the service of a further notice to owner under section 31 of this Act on the person making the declaration.

This subsection applies whether or not the relevant notice to owner was duly served in accordance with that section on the person making the declaration.

- (8) In any case within subsection (3)(c) above, no proceedings for enforcing payment of the sum registered shall be taken after the statutory declaration is served until the end of the period of twenty-one days following the date of that declaration; and where before the end of that period a notice is served by or on behalf of the chief officer of police on the person making the declaration asking him to furnish a new statutory statement of ownership to that chief officer of police before the end of the period of twenty-one days from the date on which the notice is served, no such proceedings shall be taken until the end of the period allowed for response to that notice.

- (9) Where in any case within subsection (3)(c) above—

- (a) no notice is served by or on behalf of the chief officer of police in accordance with subsection (8) above ; or
- (b) such a notice is so served and the person making the declaration furnishes a new statutory statement of ownership in accordance with the notice ;

the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void, and the case shall be treated after the time mentioned in subsection (10) below as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.

- (10) The time referred to in subsection (9) above is—

- (a) in a case within paragraph (a) of that subsection, the end of the period of twenty-one days following the date of the statutory declaration ;
- (b) in a case within paragraph (b) of that subsection, the time when the statement is furnished.

### **38 Provisions supplementary to section 37**

- (1) It shall be the duty of the clerk of the relevant court to cancel an endorsement of a licence under section 34 of this Act that is void by virtue of section 37(5) or (6)(a) of this Act on production of the licence to him for that purpose, and to send notice of the cancellation to the Secretary of State.
- (2) In any case where notice is served by or on behalf of the chief officer of police in accordance with section 37(8), the chief officer of police shall cause the clerk of the relevant court to be notified of that fact immediately on service of the notice.
- (3) In any case within section 37(2)(b) or (3), section 127(1) of the Magistrates' Courts Act 1980 (limitation of time) and section 331(1) of the Criminal Procedure (Scotland) Act 1975 (statutory offences time limit) shall have effect as if for the reference to the time when the offence was committed or (as the case may be) the time when the contravention occurred there were substituted a reference to the date of the statutory declaration made for the purposes of section 37(1).

- (4) For the purposes of section 37(1) a statutory declaration shall be taken to be duly served on the clerk of the relevant court if it is delivered to him, left at his office, or sent in a registered letter or by the recorded delivery service addressed to him at his office.
- (5) If on the application of a person who has received notice as mentioned in section 37(1) (a) it appears to the relevant court (which for this purpose may be composed of a single justice) that it was not reasonable to expect him to serve a statutory declaration to the effect there mentioned within the period allowed by that subsection, the court may accept service of such a declaration by that person after that period has expired; and a statutory declaration accepted under this subsection shall be taken to have been served as required by that subsection.
- (6) References in section 37 to the relevant fixed penalty notice or the relevant notice to owner are references to the fixed penalty notice or notice to owner relating to the fixed penalty concerned.
- (7) In section 37 and this section—
- (a) references to the relevant court are references—
    - (i) in the case of a sum registered under section 36 of this Act for enforcement as a fine in a petty sessions area in England and Wales, to any magistrates' court acting for that area ; and
    - (ii) in the case of a sum registered under that section for enforcement as a fine by a court of summary jurisdiction in Scotland, to that court;
  - (b) references to the clerk of the relevant court, where that court is a magistrates' court, are references to a clerk to the justices for the petty sessions area for which that court is acting; and
  - (c) references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum;
- and for the purposes of that section and this section a person shall be taken as receiving notice of the registration of a sum under section 36 of this Act for enforcement against him as a fine when he receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.
- (8) Nothing in the provisions of section 37 or this section shall be read as prejudicing any rights a person may have apart from those provisions by virtue of the invalidity of any action purportedly taken in pursuance of this Part of this Act which is not in fact authorised by this Part of this Act in the circumstances of the case (and accordingly references in those provisions to the registration of any sum or to any other action taken under or by virtue of any provision of this Part of this Act shall not be read as implying that the registration or action was validly made or taken in accordance with that provision).

### **39 Notification of court and date of trial**

- (1) On an occasion when a person is given a fixed penalty notice under section 27(1) or 28(2) of this Act in respect of an offence, he may be given written notification specifying the magistrates' court by which and the date on which the offence will be tried if that person gives notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice.
- (2) Subject to subsections (4) and (5) below, where—

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- (a) a person has been notified in accordance with this section of the court and date of trial of an offence in respect of which he has been given a fixed penalty notice; and
- (b) that person has given notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice;

the provisions of the Magistrates' Courts Act 1980 shall apply as mentioned in subsection (3) below.

- (3) Those provisions shall have effect for the purpose of any proceedings in respect of that offence as if—
  - (a) the allegation in the fixed penalty notice with respect to that offence were an information duly laid in accordance with section 1 of that Act; and
  - (b) the notification of court and date of trial were a summons duly issued on that information by a justice of the peace for the area for which the magistrates' court notified as the court of trial acts, requiring the person notified to appear before that court to answer to that information and duly served on him on the date on which the notification was given.
- (4) If, in a case within subsection (2) above, notice is served by or on behalf of the chief officer of police on the person who gave notice requesting a hearing stating that no proceedings are to be brought in respect of the offence concerned, that subsection shall not apply and no such proceedings may be brought against the person who gave notice requesting a hearing.
- (5) Section 14 of that Act (proceedings invalid where accused did not know of them) is not applied by subsection (2) above in a case where a person has been notified in accordance with this section of the court and date of trial of an offence.
- (6) This section does not apply to Scotland.

#### **40 Court procedure in fixed penalty cases in Scotland**

- (1) Where, in relation to an offence committed in Scotland, a person is given a fixed penalty notice under section 27(1) of this Act in respect of an offence he may be given written notification specifying the court at which and the date on which the case will first call if that person gives notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice; and such written notification may be either—
  - (a) included in the fixed penalty notice ; or
  - (b) given to the person in question at the time when he is given the fixed penalty notice.
- (2) Where—
  - (a) a person has been notified in accordance with this section of the court and date of first calling of a case concerning an offence in respect of which he has been given a fixed penalty notice ; and
  - (b) that person has given notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice;

the following provisions of this section shall apply for the purpose of any proceedings in respect of the offence.
- (3) The notification of the court and date of first calling shall have effect as if it were a citation to an accused person by virtue of section 315 of the Criminal Procedure

(Scotland) Act 1975 notwithstanding that such notification may not be in the form referred to in subsection (2) of that section.

- (4) A copy of the fixed penalty notice given under section 27(1) of this Act shall have effect as if it were a complaint under Part II of the said Act of 1975, and the provisions of that Part of that Act shall accordingly apply—
- (a) to the copy fixed penalty notice as if it were a complaint ; and
  - (b) to the fixed penalty notice as if it were a copy complaint served on the accused under that Part of that Act.
- (5) For the purposes of subsection (4) above—
- (a) it shall not be necessary for the fixed penalty notice to be signed by the prosecutor or by a solicitor on behalf of a prosecutor other than the public prosecutor of a court;
  - (b) a copy fixed penalty notice having effect as if it were a complaint shall not be held to be irrelevant by reason only—
    - (i) that the charge in the fixed penalty notice is not in the form referred to in section 312 of the said Act of 1975; or
    - (ii) that no further specification is given than the specification required for a fixed penalty notice by section 29 (6) (a) of this Act;and without prejudice to the generality of subsection (4) above, paragraphs (a) to (z) of the said section 312 shall apply in respect of the charge referred to in sub-paragraph (i) above; and
  - (c) section 311(5) of the said Act of 1975 shall not apply in respect of a copy fixed penalty notice having effect as if it were a complaint, but there shall be given to the alleged offender along with the fixed penalty notice a notice stating the penalties to which he would be liable in the event of his conviction for the offence.

#### **41 Provision for exclusion of fixed penalty procedures where fixed penalty notice mistakenly given**

- (1) This section applies where on inspection of any driving licence sent to him under section 34(3) of this Act after being surrendered by the licence holder on the occasion when he was given a fixed penalty notice in respect of an offence under section 27(1) or 28(2) of this Act it appears to the fixed penalty clerk that the licence holder would be liable to be disqualified under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more) if he were convicted of that offence.
- (2) The fixed penalty clerk may not endorse the licence under section 34 of this Act, but shall instead send it to the chief officer of police.
- (3) Nothing in this Part of this Act shall prevent proceedings being brought in respect of the offence for which the fixed penalty notice was given, provided that those proceedings are commenced before the end of the period of six months beginning with the date on which that notice was given.
- (4) If proceedings in respect of that offence are commenced before the end of that period, the case shall thereupon be treated in all respects as if no fixed penalty notice had been given in respect of the offence; and accordingly, any action taken in pursuance of any provision of this Part of this Act by reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision, the registration under section 36 of this Act of any sum determined by reference to

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the fixed penalty for that offence for enforcement against the licence holder as a fine and any proceedings for enforcing payment of any such sum within the meaning of section 38 of this Act).

*Conditional offer of fixed penalty by procurator fiscal*

**42 Fixed penalties offered by procurator fiscal**

- (1) Where a procurator fiscal receives a report that there has been committed—
- (a) a fixed penalty offence ; or
  - (b) an offence mentioned in Schedule 2 to this Act;
- and, in the former case, no fixed penalty notice has been given or affixed in accordance with section 27 of this Act, he may send to the alleged offender a notice under this section (referred to in this section as a conditional offer); and where he issues a conditional offer the procurator fiscal shall notify the clerk of court specified in it of the issue of the conditional offer and of its terms.
- (2) A conditional offer—
- (a) shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence;
  - (b) shall state the amount of the fixed penalty for that offence ;
  - (c) shall indicate that if, within twenty-eight days of the date on which the conditional offer was issued, or such longer period as may be specified in the conditional offer, the alleged offender—
    - (i) tenders payment of the fixed penalty to the clerk of court specified in the conditional offer at the address therein mentioned ; and
    - (ii) in the case of an offence involving obligatory endorsement, at the same time, delivers his driving licence to that clerk of court;
 then, if the alleged offender is not liable to disqualification under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more), and where the clerk of court accepts payment of the fixed penalty, any liability to conviction of the offence referred to in subsection (1) above shall be discharged ; and
  - (d) shall state that proceedings against the alleged offender shall not be commenced in respect of that offence until the end of a period of twenty-eight days from the date on which the conditional offer was issued, or such longer period as may be specified in the conditional offer.
- (3) References in the provisions of this Part of this Act (other than section 27 and subsection (1) above) to a fixed penalty offence include references to any offence mentioned in Schedule 2 to this Act, and references in those provisions and in subsection (2) above to an offence involving obligatory endorsement include references to an offence mentioned in the Note to that Schedule.
- (4) Where, in relation to an offence referred to in subsection (1) above, the alleged offender has delivered his driving licence to the clerk of court and tendered payment in accordance with subsection (2)(c) above, if it appears to the clerk of court, on inspecting the licence, that the alleged offender would be liable to disqualification under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more) if he were convicted of that offence, the clerk of court—

- (a) shall not accept payment of the fixed penalty;
  - (b) shall return the driving licence to the alleged offender together with the payment tendered in respect of the fixed penalty; and
  - (c) shall notify the procurator fiscal who issued the conditional offer that he has complied with paragraphs (a) and (b) above.
- (5) Where payment of the fixed penalty has not been made and, in the case of an offence involving obligatory endorsement, the driving licence has not been delivered to the clerk of court. he shall upon the expiry of the period of twenty-eight days referred to in subsection (2)(c) or such longer period as may be specified in the conditional offer, notify the procurator fiscal who issued the conditional offer that no payment has been made and, where appropriate, that no driving licence has been delivered.
- (6) Proceedings shall not be brought against any person for the offence to which a conditional offer relates until the procurator fiscal receives notification from the clerk of court in accordance with subsection (4) or (5) above.
- (7) Where an alleged offender tenders payment of the fixed penalty to the clerk of court specified in the conditional offer and such payment is accepted and, where appropriate, the driving licence is endorsed no proceedings shall be brought against the alleged offender for the offence referred to in subsection (1) above.
- (8) Subject to subsection (9) below, the following provisions of this Part of this Act, namely—  
    section 33(1); and  
    section 33(4) (a);  
shall have effect in relation to a conditional offer and the payment of the fixed penalty following upon the offer as they have effect respectively in relation to a fixed penalty notice given under section 27(1) of this Act and the payment of the fixed penalty by virtue of that notice.
- (9) For the purposes of subsection (8) above—  
    (a) references in the provisions mentioned in that subsection to the fixed penalty clerk are references to the clerk specified in accordance with subsection (2) (c)(i) above in the conditional offer ; and  
    (b) references in section 33(1) of this Act to the fixed penalty notice shall be construed as if they were references to the conditional offer.
- (10) Notwithstanding the provisions of subsection (6) of section 27 of this Act, an offence referred to in that subsection and committed in the manner described in that subsection shall, for the purposes of this section, be a fixed penalty offence.
- (11) This section applies only in relation to offences committed in Scotland.

#### **43 Endorsement of licences without hearings where conditional offer accepted**

- (1) Where a person (" the licence holder ") has delivered his licence to the clerk of court in accordance with section 42(2) of this Act, and where section 42(4) of this Act does not apply, his licence may be endorsed in accordance with this section without any order of a court.
- (2) Where the fixed penalty is paid before the clerk of court gives notice to the procurator fiscal in terms of section 42(6) of this Act, the clerk of court shall thereupon endorse the relevant particulars on the licence and return it to the licence holder.

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- (3) Subsections (6) to (10) of section 34 of this Act shall apply to endorsement under this section as they apply to endorsement under that section and for the purpose of this subsection—
- (a) references in those subsections to the fixed penalty clerk are references to the clerk of court specified in the conditional offer; and
  - (b) the reference in section 34(9) of this Act to section 41(2) of this Act includes a reference to section 42(4) of this Act.

*Miscellaneous and supplemental*

**44 Treatment of other offences committed on the same occasion**

- (1) Section 19 of the Transport Act 1981 (disqualification for repeated offences) shall have effect subject to this section in any case where—
- (a) a person is convicted of an offence involving obligatory or discretionary disqualification ; and
  - (b) the court is satisfied that his driving licence has been or is liable to be endorsed under section 34 or 43 of this Act in respect of an offence committed on the same occasion as the offence of which he is convicted (referred to below in this section as the connected offence).
- (2) The appropriate number of penalty points for the offence of which he is convicted shall be treated for the purposes of section 19 of that Act as reduced by the number of penalty points required to be endorsed on his licence under section 34 or 43 of this Act in respect of the connected offence.
- (3) References in this section, in relation to any offence, to the appropriate number of penalty points for that offence are references—
- (a) to the number of penalty points shown in respect of that offence in Schedule 7 to that Act, where only one number is so shown ; and
  - (b) where a range of numbers is so shown, to a number falling within that range determined by the court as the appropriate number of penalty points in respect of that offence apart from the provisions of this section.
- (4) In any case within subsection (1) above—
- (a) the reference in section 19(1)(b) of that Act to the number of penalty points shown in respect of an offence in Schedule 7 to that Act or to a number falling within a range of numbers so shown shall be read in relation to the offence mentioned in subsection (1) above as referring to the number so shown in respect of that offence or (as the case may be) to a number within the range so shown, reduced in either case in accordance with subsection (2) above ; and
  - (b) the reference in section 19(3)(a) to any penalty points that on the occasion of a person's conviction will be ordered to be endorsed on any licence held by him or would be so ordered if he were not then ordered to be disqualified shall be read as referring to any such points that will or would be so ordered after reduction in accordance with subsection (2) above of the appropriate number of penalty points for any offence of which he is then convicted.

**45 Hired vehicles**

- (1) This section applies where—



- (a) a notice to owner has been served on a vehicle-hire firm;
  - (b) at the time of the alleged offence the vehicle in respect of which the notice was served was let to another person by the vehicle-hire firm under a hiring agreement to which this section applies ; and
  - (c) within the period allowed under section 31 of this Act for response to the notice the firm furnishes to the chief officer of police by or on whose behalf the notice was served the documents mentioned in subsection (2) below.
- (2) Those documents are a statement on an official form, signed by or on behalf of the firm, stating that at the time of the alleged offence the vehicle concerned was hired under a hiring agreement to which this section applies, together with—
- (a) a copy of that hiring agreement; and
  - (b) a copy of a statement of liability signed by the hirer under that hiring agreement.
- (3) In this section a " statement of liability " means a statement made by the hirer under a hiring agreement to which this section applies to the effect that the hirer acknowledges that he will be liable, as the owner of the vehicle, in respect of any fixed penalty offence which may be committed with respect to the vehicle during the currency of the hiring agreement and giving such information as may be prescribed.
- (4) In any case where this section applies sections 31 and 32 of this Act shall have effect as if—
- (a) any reference to the owner of the vehicle were a reference to the hirer under the hiring agreement; and
  - (b) any reference to a statutory statement of ownership were a reference to a statutory statement of hiring;
- and accordingly references in this Part of this Act (with the exceptions mentioned below) to a notice to owner shall include references to a notice served under section 31 of this Act as it applies by virtue of this section.
- This subsection does not apply to references to a notice to owner in this section or in section 47 (7) (b) of or Part I of Schedule 3 to this Act.
- (5) In any case where this section applies a person authorised in that behalf by the chief officer of police to whom the documents mentioned in subsection (2) above are furnished may, at any reasonable time within six months after service of the notice to owner (and on production of his authority) require the firm to produce the originals of the hiring agreement and statement of liability in question.
- (6) If a vehicle-hire firm fails to produce the original of a document when required to do so under subsection (5) above, this section shall thereupon cease to apply (and section 31 shall apply accordingly in any such case after that time as it applies in a case where the person on whom the notice to owner was served has failed to furnish a statutory statement of ownership in response to the notice within the period allowed).
- (7) This section applies to a hiring agreement under the terms of which the vehicle concerned is let to the hirer for a fixed period of less than six months (whether or not that period is capable of extension by agreement between the parties or otherwise); and any reference in this section to the currency of the hiring agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of the fixed period specified in the agreement, but otherwise on terms and conditions so specified.

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(8) In this section—

" hiring agreement" refers only to an agreement which contains such particulars as may be prescribed and does not include a hire-purchase agreement within the meaning of the Consumer Credit Act 1974 ; and

" vehicle-hire firm " means any person engaged in hiring vehicles in the course of a business.

#### **46 False statements in response to notices to owner**

- (1) If, in response to a notice to owner, any person furnishes a statement which is false in a material particular and does so recklessly or knowing it to be false in that particular, he shall be liable on summary conviction to a fine not exceeding £1000.
- (2) Proceedings for an offence in England and Wales under subsection (1) above may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge, but no such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.
- (3) Proceedings in Scotland for an offence under subsection (1) above shall not be commenced after the expiration of a period of three years from the commission of the offence, but subject to that limitation, any such proceedings may be commenced at any time within six months after the date on which evidence sufficient in the opinion of the procurator fiscal to justify the proceedings comes to his knowledge.
- (4) Proceedings may be commenced in accordance with subsection (3) above notwithstanding anything in section 331(1) of the Criminal Procedure (Scotland) Act 1975; and subsection (3) of that section (date of commencement of proceedings) shall apply for the purposes of this section as it applies for the purposes of that section.
- (5) For the purposes of subsections (2) and (3) above, a certificate signed by or on behalf of the prosecutor or, as the case may be, the procurator fiscal and stating the date on which such evidence as is there mentioned came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be taken to be so signed unless the contrary is proved.

#### **47 Evidence in fixed penalty notice cases**

- (1) In any proceedings a certificate that a copy of a statement by a constable with respect to the alleged offence (referred to below in this section as a constable's witness statement) was included in or given with a fixed penalty notice or a notice under section 28(1) of this Act given to the accused on a date specified in the certificate shall, if the certificate purports to be signed by the constable who gave the accused the notice, be evidence of service of a copy of that statement by delivery to the accused on that date.
- (2) In any proceedings a certificate that a copy of a constable's witness statement was included in or served with a notice to owner served on the accused in a manner and on a date specified in the certificate shall, if the certificate purports to be signed by any person employed by the police authority for the police area in which the offence to which the proceedings relate is alleged to have been committed, be evidence of service in the manner and on the date so specified both of a copy of that statement and of the notice to owner.

- (3) Any address specified in any such certificate as is mentioned in subsection (2) above as being the address at which service of the notice to owner was effected shall be taken for the purposes of any proceedings in which the certificate is tendered in evidence to be the accused's proper address, unless the contrary is proved.
  - (4) Where a copy of a constable's witness statement is included in or served with a notice to owner served in any manner in which the notice is authorised to be served under this Part of this Act, the statement shall be treated as duly served for the purposes of section 9 of the Criminal Justice Act 1967 (proof by written statement) notwithstanding that the manner of service is not authorised by subsection (8) of that section.
  - (5) In relation to any proceedings in which service of a constable's witness statement is proved by certificate under this section—
    - (a) that service shall be taken for the purposes of subsection (2)(c) of that section (copy of statement to be tendered in evidence to be served before hearing on other parties to the proceedings by or on behalf of the party proposing to tender it) to have been effected by or on behalf of the prosecutor; and
    - (b) subsection (1)(d) of that section (time for objection) shall have effect with the substitution, for the reference to seven days from the service of the copy of the statement, of a reference to seven days from the relevant date.
- In paragraph (b) of this subsection, " relevant date " means—
- (i) where the accused gives notice requesting a hearing in respect of the offence in accordance with any provision of this Part of this Act, the date on which he gives that notice; and
  - (ii) where a notice in respect of the offence was given to the accused under section 28(1) of this Act but no fixed penalty notice is given in respect of it, the last day for production of the first-mentioned notice at a police station in accordance with that section.
- (6) Where any person is charged with a fixed penalty offence and the prosecutor produces to the court a document to which this subsection applies purporting to have been signed by the accused, the document shall be presumed, unless the contrary is proved, to have been signed by the accused and shall be evidence (and, in Scotland, sufficient evidence) in the proceedings of any facts stated in it tending to show that the accused was the owner, the hirer or the driver of the vehicle concerned at a particular time.
  - (7) Subsection (6) above applies to any document purporting to be—
    - (a) a notice requesting a hearing in respect of the offence charged given in accordance with a fixed penalty notice relating to that offence ; or
    - (b) a statutory statement of any description defined in Schedule 3 to this Act or a copy of a statement of liability within the meaning of section 45 of this Act furnished in response to a notice to owner.
  - (8) Subsections (1) to (5) above do not apply to Scotland.

#### **48 Jurisdiction of the district court in Scotland**

- (1) Notwithstanding anything in any enactment or rule of law to the contrary it shall be competent for a district court in Scotland to try any of the offences mentioned in Schedules 1 and 2 to this Act.

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- (2) Nothing in this section shall empower the district court in respect of any offence—
- (a) to impose—
    - (i) a penalty of imprisonment which exceeds sixty days; or
    - (ii) a fine which exceeds level 4 on the standard scale; or
  - (b) subject to subsection (3) below, to impose disqualification within the meaning of the 1972 Act.
- (3) Where a person is convicted in the district court of an offence referred to in subsection (1) above, being an offence involving obligatory endorsement.—
- (a) the court shall order that particulars of the conviction shall be endorsed on any licence held by him in accordance with section 101 of the 1972 Act; and
  - (b) if the penalty points to be taken into account under section 19(3) of the Transport Act 1981 number twelve or more, the court shall order him to be disqualified under section 19(2) of that Act.
- (4) Until the commencement of section 54 of the Criminal Justice Act 1982, for the reference to level 4 on the standard scale in subsection (2) above there shall be substituted a reference to £200.

#### **49 Supplementary provisions**

- (1) The Secretary of State may by regulations make provision as to any matter incidental to the operation of this Part of this Act, and in particular—
- (a) for prescribing any information or further information to be provided in any notice, notification, certificate of receipt under section 27, 28, 31, 35, 36(2) or (3), 37(8), 39(1), 40(1) or 42 of this Act or in any official form for a statutory statement mentioned in Schedule 3 to, or a statement under section 45(2) of, this Act;
  - (b) for requiring any such official form to be served with any notice served under section 31 or 37(8) of this Act; and
  - (c) for prescribing the duties of justices' clerks or (as the case may be) clerks of courts of summary jurisdiction and the information to be supplied to them.
- (2) For the purposes of this Part of this Act, the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and for the purposes of determining, in the course of any proceedings brought by virtue of section 31 of this Act, who was the owner of a vehicle at any time, it shall be presumed that the owner was the person who was the registered keeper of the vehicle at that time.
- (3) Notwithstanding the presumption in subsection (2) above, it shall be open to the defence in any proceedings to prove that the person who was the registered keeper of a vehicle at a particular time was not the person by whom the vehicle was kept at that time and to the prosecution to prove that the vehicle was kept by some other person at that time.
- (4) Subject to any requirement of this Part of this Act with respect to the manner in which any such document may be furnished, the following documents may be furnished by post (but without prejudice to any other method of furnishing), that is to say—
- (a) any of the statutory statements mentioned in Schedule 3 to this Act; and
  - (b) any of the documents mentioned in section 45(2) of this Act.

- (5) Where a notice requesting a hearing in respect of an offence is permitted by a fixed penalty notice or notice to owner relating to that offence to be given by post, section 7 of the Interpretation Act 1978 (service of documents by post) shall apply as if that notice were permitted to be so given by this Act.
- (6) A notice to owner may be served on any person—
- (a) by delivering it to him or by leaving it at his proper address; or
  - (b) by sending it to him by post;
- and where the person on whom such a notice is to be served is a body corporate it shall be duly served if it is served on the secretary or clerk of that body.
- (7) For the purposes of this Part of this Act and of section 7 of the Interpretation Act 1978 as it applies for the purposes of subsection (6) above the proper address of any person in relation to service on him of a notice to owner shall be—
- (a) in the case of the secretary or clerk of a body corporate, that of the registered or principal office of that body or the registered address of the person who is or was the registered keeper of the vehicle concerned at the time of service; and
  - (b) in any other case, his last known address at the time of service.
- (8) References in this section to the person who was or is the registered keeper of a vehicle at any time are references to the person in whose name the vehicle was or is at that time registered under the Vehicles (Excise) Act 1971; and, in relation to any such person, the reference in subsection (7) (a) above to that person's registered address is a reference to the address recorded in the record kept under that Act with respect to that vehicle as being that person's address.
- (9) References in this Part of this Act to statutory statements of any description are references to the statutory statements of that description denoted in Schedule 3 to this Act; and that Schedule shall have effect also for the purpose of requiring certain information to be provided in official forms for the statutory statements so defined to assist persons in completing those forms and generally in determining what action to take in response to a notice to owner.
- (10) In this Part of this Act, " official form ", in relation to a statutory statement mentioned in Schedule 3 to or a statement under section 45(2) of this Act, means a document supplied by or on behalf of a chief officer of police for use in making that statement.
- (11) An order under section 81(3) of the 1967 Act may not authorise the employment of a traffic warden to discharge any function under this Part of this Act in respect of an offence if the offence appears to the traffic warden to be an offence involving obligatory endorsement.
- (12) Section 179 of the 1972 Act (restrictions on prosecutions for certain offences) shall not apply to any offence in respect of which a fixed penalty notice has been given or affixed under any provision of this Part of this Act or in respect of which a notice has been given under section 28(1) of this Act.
- (13) In any case where—
- (a) by virtue of section 31(6) of this Act proceedings may be brought in respect of an offence against a person on whom a notice to owner was served ; and
  - (b) section 38(3) of this Act does not apply ;
- section 127(1) of the Magistrates' Courts Act 1980 (information must be laid within six months of time offence committed) and section 331(1) of the Criminal Procedure

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(Scotland) Act 1975 (proceedings must be commenced within six months of that time) shall have effect as if for the reference to six months there were substituted a reference to twelve months.

## 50 Interpretation of Part III

(1) In this Part of this Act—

" chief officer of police " means, in relation to any fixed penalty notice or notice to owner, the chief officer of police for the police area in which the fixed penalty offence in question is alleged to have been committed ;

" court of summary jurisdiction " has the same meaning as in section 462(1) of the Criminal Procedure (Scotland) Act 1975 ;

" driving licence " means any licence to drive a motor vehicle granted under Part III of the 1972 Act;

" justices' clerk " means a clerk to the justices for a petty sessions area;

" magistrates' court " and " petty sessions area " have the same meanings as in the Magistrates' Courts Act 1980; and

" proceedings ", except in relation to proceedings for enforcing payment of a sum registered under section 36 of this Act, means criminal proceedings.

(2) In this Part of this Act—

(a) references to a notice requesting a hearing in respect of an offence are references to a notice indicating that the person giving the notice wishes to contest liability for the offence or seeks a determination by a court with respect to the appropriate punishment for the offence; and

(b) references to an offence include an alleged offence.

(3) In so far as an order under section 81(3) of the 1967 Act authorises the employment of traffic wardens for the purposes of this Part of this Act references in this Part of this Act to a constable or, as the case may be, to a constable in uniform shall include a traffic warden.

(4) In sections 31, 32 and 47(6) of this Act and in Schedule 3 to this Act, " driver ", in relation to an alleged fixed penalty offence, means the person by whom, assuming the offence to have been committed, it was committed.

(5) Subject to any express exception, references in this Part of this Act to this Part of this Act include Schedules 1 to 3.

(6) The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part of this Act listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provisions</i>
Fixed penalty	Section 29(3)
Fixed penalty clerk	Section 33(2)
Fixed penalty notice	Section 27(8)
Fixed penalty offence	Sections 27(5) and 42(3)
Notice to owner	Sections 31(2) and 45(4)

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<i>Expression</i>	<i>Relevant provisions</i>
Offence involving obligatory endorsement	Sections 27(9) and 42(3)
Official form	Section 49(10)
Owner	Section 49(2)
Statutory statement of facts	Part II of Schedule 3
Statutory statement of hiring	Part I of Schedule 3
Statutory statement of ownership	Part I of Schedule 3
Suspended enforcement period	Section 29(1)
Time of the alleged offence	Section 31(3)

## 51 Guidance on application of Part III

The Secretary of State shall issue guidance to chief officers of police for police areas in respect of the operation of this Part of this Act with the objective so far as possible of working towards uniformity.

## PART IV

### MISCELLANEOUS AND SUPPLEMENTAL

#### *Environmental control of goods vehicle operating centres*

## 52 Control of operating centres for goods vehicles on environmental grounds

- (1) The operating centre of any authorised vehicle under a goods vehicle operator's licence granted under Part V of the Transport Act 1968 shall be the base or centre at which it is normally kept (whether or not it is also normally used from there); and accordingly, in section 92(1) of that Act (interpretation of Part V), for the definition of " operating centre " there shall be substituted the following definition—

“ operating centre', in relation to any vehicle, means the base or centre at which the vehicle is normally kept, and references to an operating centre of the holder of an operator's licence are references to any place which is an operating centre for authorised vehicles under the licence”.

- (2) The provisions set out in Part I of Schedule 4 to this Act (which establish control by licensing authorities under Part V of the Transport Act 1968 over—
- the places which may be used as operating centres for authorised vehicles under goods vehicle operators' licences granted under that Part of that Act; and
  - the use to which any such centre may be put for authorised vehicles under any operator's licence so granted ;

with a view to preventing or minimising any adverse effects on environmental conditions arising from the situation of any such centres or from their use as mentioned in paragraph (b) above) shall be inserted in Part V of that Act immediately after section 69.

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- (3) Part II of Schedule 4 to this Act shall have effect for the purpose of making amendments of the provisions of the Transport Act 1968 relating to goods vehicle operators' licences supplementing the provisions set out in Part I of that Schedule, and for the purpose of extending the right to object to or make representations against the grant or variation of such licences to certain authorities, other than local authorities, exercising planning functions.

*Immobilisation of vehicles illegally parked*

**53 Immobilisation of vehicles illegally parked**

- (1) Subject to sections 54 and 55 of this Act, where a constable finds a vehicle on a road which has been permitted to remain at rest there in contravention of any prohibition or restriction imposed by or under any enactment, he may—
- (a) fix an immobilisation device to the vehicle while it remains in the place in which he finds it; or
  - (b) move it from that place to another place on the same or another road and fix an immobilisation device to it in that other place;
- or authorise another person to take under his direction any action he could himself take by virtue of paragraph (a) or (b) above.
- (2) On any occasion when an immobilisation device is fixed to a vehicle in accordance with this section the constable or other person fixing the device shall also affix to the vehicle a notice—
- (a) indicating that such a 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 that device;
  - (b) specifying the steps to be taken in order to secure its release; and
  - (c) giving such other information as may be prescribed.
- (3) A vehicle to which an immobilisation device has been fixed in accordance with this section may only be released from that device by or under the direction of a constable.
- (4) Subject to subsection (3) above, a vehicle to which an immobilisation device has been fixed in accordance with this section shall be released from that device on payment in any manner specified in the notice affixed to the vehicle under subsection (2) above of such charge in respect of the release as may be prescribed.
- (5) A notice affixed to a vehicle under this section shall not be removed or interfered with except by or under the authority of the person in charge of the vehicle or the person by whom it was put in the place where it was found by the constable; and any person contravening this subsection shall be liable on summary conviction to a fine not exceeding £50.
- (6) Any person who, without being authorised to do so in accordance with this section, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with this section shall be liable on summary conviction to a fine not exceeding £200.
- (7) Where a vehicle is moved in accordance with this section before an immobilisation device is fixed to it, any power of removal under regulations for the time being in force under section 20 of the 1967 Act (removal of vehicles illegally parked etc.) which



was exercisable in relation to that vehicle immediately before it was so moved shall continue to be exercisable in relation to that vehicle while it remains in the place to which it was so moved.

- (8) In relation to any vehicle which is removed in pursuance of any such regulations or under section 3 of the Refuse Disposal (Amenity) Act 1978 (duty of local authority to remove abandoned vehicles) from a place to which it was moved in accordance with this section, references in the definition of " person responsible " in section 52 of the 1967 Act and section 5 of the Act of 1978 mentioned above (recovery from person responsible of charges and expenses in respect of vehicles removed) to the place from which the vehicle was removed shall be read as references to the place in which it was immediately before it was moved in accordance with this section.
- (9) In this section " immobilisation device " means any device or appliance designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion, being a device or appliance of a type approved by the Secretary of State for use for that purpose in accordance with this section.
- (10) Any sum received by virtue of subsection (4) above shall be paid into the police fund.

#### **54 Exemptions from section 53**

- (1) Subject to the following provisions of this section, section 53(1) of this Act shall not apply in relation to a vehicle found by a constable in the circumstances mentioned in that subsection if either—
  - (a) a current disabled person's badge is displayed on the vehicle; or
  - (b) the vehicle is in a meter bay within a parking place designated by an order made under section 35 of the 1967 Act (referred to below in this section as a designation order).
- (2) The exemption under subsection (1)(b) above shall not apply in the case of any vehicle if—
  - (a) the meter bay in which it was found was not authorised for use as such at the time when it was left there (referred to below in this section as the time of parking); or
  - (b) an initial charge was not duly paid at the time of parking ; or
  - (c) there has been since that time any contravention in relation to the relevant parking meter of any provision made by virtue of section 36(2)(c) of that Act (meter-feeding) ; or
  - (d) more than two hours have elapsed since the end of any period for which an initial charge was duly paid at the time of parking or (as the case may be) since the end of any unexpired time in respect of another vehicle available on the relevant parking meter at the time of parking.
- (3) For the purposes of subsection (2)(a) above, a meter bay in a parking place designated by a designation order is not authorised for use as such at any time when—
  - (a) by virtue of section 37(1)(a) of the 1967 Act (times when vehicles may not be left in designated parking place) the parking place is treated for the purposes of sections 36 and 42 of that Act as if it were not designated by that order; or
  - (b) the use of the parking place or of any part of it that consists of or includes that particular meter bay is suspended under section 37(3) of that Act (order may confer power on certain authorities to suspend use of designated parking place or any part of it, etc.).

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- (4) In relation to any vehicle found in a meter bay within a parking place designated by a designation order, references in subsection (2) above to an initial charge are references to an initial charge payable in respect of that vehicle under section 35 of the 1967 Act.
- (5) In any case where section 53(1) of this Act would apply in relation to a vehicle but for subsection (1)(a) above, the person guilty of contravening the prohibition or restriction mentioned in section 53(1) is also guilty of an offence under this subsection if the conditions mentioned in subsection (6) below are met.
- (6) Those conditions are that at the time when the contravention occurred—
- (a) the vehicle was not being used either by the person to whom the disabled person's badge was issued or under subsection (4) (institutional use) of section 21 of the Chronically Sick and Disabled Persons Act 1970 (badges for display on motor vehicles used by disabled persons); and
  - (b) he was not using the vehicle in circumstances falling within section 86A(2)(b) of the 1967 Act (circumstances where certain concessions are available to disabled person's vehicles).
- (7) A person guilty of an offence under subsection (5) above shall be liable on summary conviction to a fine not exceeding £200.
- (8) In this section—
- " disabled person's badge " means any badge issued, or having effect as if issued, under any regulations for the time being in force under section 21 of the Chronically Sick and Disabled Persons Act 1970 ;
- " initial charge " and " parking meter" have the same meanings as in section 36 of the 1967 Act; and
- " meter bay " means a parking space equipped with a parking meter;
- and the references in subsection (2) above to the relevant parking meter are references to the parking meter relating to the meter bay in which the vehicle in question was found.

## **55 Initial experimental period for immobilisation of vehicles**

- (1) Sections 53 and 54 of this Act (referred to below in this section as the principal sections) shall extend only to such areas as the Secretary of State may by order specify; and the power of the Secretary of State to extend those sections to any area is subject to the following provisions of this section.
- (2) During the experimental period for the purposes of the principal sections—
- (a) any order under this section extending those sections to any area shall be an experimental order; and
  - (b) only one such order may be in force at any one time (without prejudice to the variation of that order from time to time by a further order under this section).
- (3) An experimental order—
- (a) shall relate to a single area only (without prejudice to the alteration of that area from time to time by a further order under this section varying the experimental order); and
  - (b) shall expire at the end of the period of two years beginning with the day on which it comes into force, unless it is previously revoked or continued in force by a further order under this section.

- (4) The experimental period for the purposes of the principal sections is the period beginning with the date on which those sections come into force and ending with the date on which any order continuing in force an experimental order under this section comes into force.
- (5) After the end of the experimental period for the purposes of the principal sections any order under this section extending those sections to any area may be made for a limited period or without limit of time (subject to variation or revocation by a further order under this section).
- (6) An order under this section continuing in force an experimental order under this section shall not be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (7) The Secretary of State shall not by order under this section (including any order varying an existing order) extend the principal sections to any area for the first time unless requested to do so by the authority responsible for traffic regulation in that area.
- (8) For the purposes of subsection (7) above, the authority responsible for traffic regulation in any area is—
  - (a) in relation to any area in Greater London, the Greater London Council;
  - (b) in relation to any area in England and Wales other than an area in Greater London, the council of the county ; and
  - (c) in relation to any area in Scotland, the regional or islands council.

### *Miscellaneous*

## **56 Definition of heavy commercial vehicle**

- (1) In section 104 of the 1967 Act (general interpretation provisions) the following subsections shall be inserted after subsection (1) (in substitution for subsections (1A) to (1E) inserted by section 1(7) of the Heavy Commercial Vehicles (Controls and Regulations) Act 1973)—

“(1A) In this Act "heavy commercial vehicle" means any goods vehicle which has an operating weight exceeding 7\*5 tonnes.

(1B) The operating weight of a goods vehicle for the purposes of this section is—

- (a) in the case of a motor vehicle not drawing a trailer, or in the case of a trailer, its maximum laden weight;
- (b) in the case of an articulated vehicle, its maximum laden weight (if it has one) and otherwise the aggregate maximum laden weight of all the individual vehicles forming part of that articulated vehicle; and
- (c) in the case of a motor vehicle (other than an articulated vehicle) drawing one or more trailers, the aggregate maximum laden weight of the motor vehicle and the trailer or trailers attached to it.

(1C) In this section—

" articulated vehicle " means a motor vehicle with a trailer so attached to it as to be partially superimposed upon it;

" goods vehicle" has the same meaning (except as provided by subsection (1D) below) as in the Road Traffic Act 1972;

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and references to the maximum laden weight of a vehicle are references to the total laden weight which must not be exceeded in the case of that vehicle if it is to be used in Great Britain without contravening any regulations for the time being in force under section 40 of that Act (construction and use regulations).

(1D) In this section, and in the definition of " goods vehicle " in section 196(1) of that Act as it applies for the purposes of this section, " trailer " means any vehicle other than a motor vehicle.

(1E) The Secretary of State may by regulations amend subsections (1A) and (1B) above (whether as originally enacted or as previously amended under this subsection)—

- (a) by substituting weights of a different description for any of the weights there mentioned; or
- (b) in the case of subsection (1A) above, by substituting a weight of a different description or amount, or a weight different both in description and amount, for the weight there mentioned.

(1F) Different regulations may be made under subsection (1E) above for the purpose of different provisions of this Act and as respects different classes of vehicles or as respects the same class of vehicles in different circumstances and as respects different times of the day or night and as respects roads in different localities.

(1G) Regulations under subsection (1E) above shall not so amend subsection (1A) above that there is any case in which a goods vehicle whose operating weight (ascertained in accordance with subsection (1B) above as originally enacted) does not exceed 7.5 tonnes is a heavy commercial vehicle for any of the purposes of this Act”.

(2) In section 36A of the 1972 Act (prohibition of parking of heavy commercial vehicles on verges and footways), for subsections (5) to (9) (which contain a definition of " heavy commercial vehicle " which corresponds to that replaced for the purposes of the 1967 Act by the definition inserted in section 104 of that Act by subsection (1) above) there shall be substituted the following subsections—

“(5) In this section " heavy commercial vehicle " means any goods vehicle which has an operating weight exceeding 7.5 tonnes.

- (6) The operating weight of a goods vehicle for the purposes of this section is—
- (a) in the case of a motor vehicle not drawing a trailer or in the case of a trailer, its maximum laden weight;
  - (b) in the case of an articulated vehicle, its maximum laden weight (if it has one) and otherwise the aggregate maximum laden weight of all the individual vehicles forming part of that articulated vehicle; and
  - (c) in the case of a motor vehicle (other than an articulated vehicle) drawing one or more trailers, the aggregate maximum laden weight of the motor vehicle and the trailer or trailers attached to it

(7) In this section " articulated vehicle " means a motor vehicle with a trailer so attached to it as to be partially superimposed upon it; and references to the maximum laden weight of a vehicle are references to the total laden weight which must not be exceeded in the case of that vehicle if it is to be used in Great Britain without contravening any regulations for the time being in force under section 40 of this Act.

- (8) In this section, and in the definition of "goods vehicle " in section 196(1) of this Act as it applies for the purposes of this section, " trailer " means any vehicle other than a motor vehicle.
- (9) The Secretary of State may by regulations amend subsections (5) and (6) above (whether as originally enacted or as previously amended under this subsection)—
- (a) by substituting weights of a different description for any of the weights there mentioned ; or
  - (b) in the case of subsection (5) above, by substituting a weight of a different description or amount, or a weight different both in description and amount, for the weight there mentioned.
- (10) Different regulations may be made under subsection (9) above as respects different classes of vehicles or as respects the same class of vehicles in different circumstances and as respects different times of the day or night and as respects different localities.
- (11) Regulations under subsection (9) above shall not so amend subsection (5) above that there is any case in which a goods vehicle whose operating weight (ascertained in accordance with subsection (6) above as originally enacted) does not exceed 7.5 tonnes is a heavy commercial vehicle for any of the purposes of this section.”.
- (3) For the purpose of determining whether or not any vehicle is a heavy commercial vehicle for the purposes of a traffic regulation order or experimental traffic order—
- (a) made before 13th August 1981 (whether or not varied or, in the case of an experimental traffic order, continued after that date); and
  - (b) including any such provision as is referred to in section 1 (3AA) of the 1967 Act;
- the new definition shall not apply during the transitional period and the previous definition shall continue to apply during that period.

- (4) In subsection (3) above—
- "experimental traffic order" has the same meaning as it has in section 9 of the 1967 Act, but does not include an order in respect of traffic on roads in Greater London ;
  - " the new definition " means section 104(1A) to (1G) of that Act, as it has effect by virtue of subsection (1) above;
  - " the previous definition " means section 104(1A) to (IE) of that Act, as it had effect before the coming into force of this section ;
  - " traffic regulation order " has the same meaning as it has in section 1 of that Act; and
  - " transitional period" means the period beginning with the coming into force of this section and ending with 31st December 1989.

## **57 Authorisation of head-worn appliances for use on motor cycles**

- (1) The following section shall be inserted after section 33 of the 1972 Act (protective helmets for motor cyclists) immediately before section 33A of that Act (which was inserted by section 27 of the Transport Act 1981)—

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**“33AA Authorisation of head-worn appliances for use on motor cycles.**

- (1) The Secretary of State may make regulations prescribing (by reference to shape, construction or any other quality) types of appliance of any description to which this section applies as authorised for use by persons driving or riding (otherwise than in sidecars) on motor cycles of any class specified in the regulations.
- (2) Regulations under this section—
  - (a) may impose restrictions or requirements with respect to the circumstances in which appliances of any type prescribed by the regulations may be used ; and
  - (b) may make different provision in relation to different circumstances.
- (3) If a person driving or riding on a motor cycle on a road uses an appliance of any description for which a type is prescribed under this section he shall be guilty of an offence if that appliance is not of a type so prescribed or is otherwise used in contravention of regulations under this section.
- (4) If a person sells, or offers for sale, an appliance of any such description as authorised for use by persons on or in motor cycles, or motor cycles of any class, and that appliance is not of a type prescribed under this section as authorised for such use, he shall, subject to subsection (5) below, be guilty of an offence.
- (5) A person shall not be convicted of an offence under this section in respect of the sale or offer for sale of an appliance if he proves that it was sold or, as the case may be, offered for sale for export from Great Britain.
- (6) In England or Wales the council of a county or of a London borough, the Greater London Council or the Common Council of the City of London may institute proceedings for an offence under this section.
- (7) The provisions of Schedule 1 to this Act shall have effect in relation to contraventions of subsection (4) of this section as they have effect in relation to contraventions of section 33 of this Act; and in that Schedule, as it has effect by virtue of this subsection—
  - (a) references to helmets shall be read as references to appliances to which this section applies; and
  - (b) the reference in paragraph 4(1)(a) to a type which under the principal section could be lawfully sold or offered for sale shall be read as a reference to a type which under this section could be lawfully sold or offered for sale as authorised for use in the manner in question.
- (8) This section applies to appliances of any description designed or adapted for use—
  - (a) with any headgear ; or
  - (b) by being attached to or placed upon the head;(as, for example, eye protectors or earphones).
- (9) References in this section to selling or offering for sale include respectively references to letting on hire and offering to let on hire.”.

(2) The following entries shall be inserted in Part I of Schedule 4 to the 1972 Act (prosecution and punishment of offences) immediately after the entry relating to section 33—

“33AA(3)	Contravention of regulations with respect to use of head-worn appliances on motor cycles.	Summarily.	£50.	—	—	—
33AA(4)	Selling, etc., appliance not of prescribed type as approved for use on motor cycles.	Summarily.	£200.	—	—	—.”.

**58 Penalty points for accessories to traffic offences**

The following shall be substituted for Part I of Schedule 7 to the Transport Act 1981 (penalty points)—

**“PART I**

**OFFENCES WHERE DISQUALIFICATION OBLIGATORY FOR PRINCIPAL OFFENDERS EXCEPT FOR SPECIAL REASONS**

Description of offence	Number of penalty points
Any offence involving obligatory disqualification (within the meaning of Part III of the Road Traffic Act 1972)—	
(a) in the case of an offence which is treated as an offence involving discretionary disqualification for the purposes of section 93 of that Act by virtue of subsection (6) of that section (offences committed by aiding, etc., the commission of an offence involving obligatory disqualification)	10
(b) in any other case	4.”.

**59 Specimens of breath for breath tests, etc.**

In section 12(3) of the 1972 Act as inserted by Schedule 8 to the Transport Act 1981 (circumstances in which a person fails to provide a specimen of breath for a breath test or for analysis), the following words shall be added at the end " and provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved ".

**60 Alteration of procedure governing the Highway Code**

The following section shall be substituted for section 37 of the 1972 Act—

**“37 The Highway Code.**

- (1) The Highway Code shall continue to have effect, subject however to revision in accordance with the following provisions of this section.
- (2) Subject to the following provisions of this section, the Secretary of State may from time to time revise the Highway Code by revoking, varying, amending or adding to the provisions of the Code in such manner as he thinks fit.
- (3) Where the Secretary of State proposes to revise the Highway Code by making any alterations in the provisions of the Code, other than alterations merely consequential on the passing, amendment or repeal of any statutory provision, he shall lay the proposed alterations before both Houses of Parliament and shall not make the proposed revision until after the end of a period of forty days beginning with the day on which the alterations were so laid.
- (4) If within the period mentioned in subsection (3) above either House resolves that the proposed alterations be not made, the Secretary of State shall not make the proposed revision (but without prejudice to the laying before Parliament of further proposals for alteration in accordance with that subsection).
- (5) Before revising the Highway Code by making any alterations in its provisions which are required by subsection (3) above to be laid before Parliament, the Secretary of State shall consult with such representative organisations as he thinks fit.
- (6) The Secretary of State shall cause the Highway Code to be printed and may cause copies of it to be sold to the public at such price as he may determine.
- (7) A failure on the part of a person to observe a provision of the Highway Code shall not of itself render that person liable to criminal proceedings of any kind but any such failure may in any proceedings (whether civil or criminal, and including proceedings for an offence under this Act, the Road Traffic Regulation Act 1967 or the Public Passenger Vehicles Act 1981) be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.
- (8) In this section " the Highway Code " means the code comprising directions for the guidance of persons using roads issued under section 45 of the Road Traffic Act 1930, as from time to time revised under this section or under any previous enactment.
- (9) For the purposes of subsection (3) above—



- (a) "statutory provision" means a provision contained in an Act or in subordinate legislation within the meaning of the Interpretation Act 1978 (and the reference to the passing or repeal of any such provision accordingly includes the making or revocation of any such provision);
- (b) where the proposed alterations are laid before each House of Parliament on different days, the later day shall be taken to be the day on which they were laid before both Houses; and
- (c) in reckoning any period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days."

## 61 Speed limits

- (1) In determining whether a road which is provided with such a system of street lighting as is mentioned in section 72(1) of the 1967 Act (street lighting system of specified density) is a restricted road for the purpose of section 71 of that Act (general speed limit for restricted roads), the qualification imposed in the case of trunk or classified roads by section 72(2) (whereby the provision of such a system renders the road restricted only if the system was provided before 1st July 1957) shall cease to have effect.
- (2) Any road which—
  - (a) would (apart from this subsection) become a restricted road by virtue of subsection (1) above at the time of the coming into operation of this section ; and
  - (b) immediately before that time was treated as if it were not a restricted road ; shall be taken to have ceased to be a restricted road before that time by virtue of a direction duly given under section 72(3) and still in force at that time.
- (3) For the purposes of subsection (2)(b) above, a road shall be taken as having been treated as if it were not a restricted road immediately before the time mentioned in that subsection if immediately before that time there was in place in respect of that road any sign of a description prescribed for indicating—
  - (a) that no maximum speed limit (other than one in respect of which no sign is required) is to be observed on any road in respect of which it is placed; or
  - (b) that a maximum speed limit is to be observed on any such road;so long as in a case within paragraph (b) above the maximum speed limit displayed is greater than the rate of speed fixed by section 71 at that time (maximum speed limit of thirty miles per hour on restricted roads).
- (4) For the purposes of subsection (3)(a) above, a maximum speed limit is one in respect of which no sign is required if it is one in relation to which section 75 of the 1967 Act does not apply.
- (5) In consequence of the preceding provisions of this section, section 72(2) and (4) of the 1967 Act is hereby repealed.
- (6) In this section " road " means any length of road.

## 62 Approval of radar speed measuring devices

There shall be inserted after section 78A of the 1967 Act the following section—

**“78B Approval of radar speed measuring devices.**

On the prosecution of a person for any speeding offence, evidence of the measurement of any speed by a device designed or adapted for measuring by radar the speed of motor vehicles shall not be admissible unless the device is of a type approved by the Secretary of State.”.

**63 Amendment of certain penalties in the 1972 Act**

- (1) In Part I of Schedule 4 to the 1972 Act (prosecution and punishment of offences), column 4 of the entry relating to section 40(5) (contravention of construction and use regulations) shall be amended as follows—
- (a) for " £400 ", in both places where it occurs, there shall be substituted " £1,000 ";
  - (b) for " £100 " there shall be substituted " £500 "; and
  - (c) after the words "goods vehicle", in the first place where they occur, there shall be inserted the words " or a vehicle adapted to carry more than eight passengers ".
- (2) In column 4 of the entry in Part I of Schedule 4 relating to section 44(1) of that Act (using, etc., a vehicle without required test certificate being in force) for " £100 " there shall be substituted—
- “(a) £500, in the case of a vehicle adapted to carry more than eight passengers ; and
  - (b) £200 in any other case.”.
- (3) This section does not apply in relation to offences committed before it comes into operation.

**64 Proceedings in respect of offences in connection with Crown vehicles**

- (1) In section 188 of the 1972 Act (application to the Crown), for subsections (8) and (9) there shall be substituted the following subsections—
- “(8) Where an offence under this Act is alleged to have been committed in connection with a vehicle in the public service of the Crown, proceedings may be brought in respect of the offence against a person nominated for the purpose on behalf of the Crown ; and subject to subsection (9) below, where any such offence is committed any person so nominated shall also be guilty of the offence as well as any person actually responsible for the offence (but without prejudice to proceedings against any person so responsible).
  - (9) Where a person is convicted of an offence by virtue of subsection (8) above—
    - (a) no order may be made on his conviction save an order imposing a fine;
    - (b) payment of any fine imposed on him in respect of that offence may not be enforced against him; and
    - (c) apart from the imposition of any such fine, the conviction shall be disregarded for all purposes other than any appeal (whether by way of case stated or otherwise).”

- (2) The subsections substituted by subsection (1) above for subsections (8) and (9) of section 188 of the 1972 Act (referred to below in this section as the 1972 Act subsections) shall also be substituted—
- (a) for section 97(4) of the 1967 Act; and
  - (b) for section 102(3) of the Transport Act 1968 ;
- renumbered in the former case as subsections (4) and (5) and in the latter case as subsections (3) and (3A) (and taking the reference in each of those subsections to the other as correspondingly renumbered).
- (3) As inserted by subsection (2) above in section 102 of the Transport Act 1968, subsection (8) of the 1972 Act subsections shall have effect with the substitution of the words " this Part of this Act " for the words " this Act " .

## **65 Marking of builders' skips**

In section 139 of the Highways Act 1980 (control of builders' skips), at the end of subsection (4)(a) (duty of owner of skip deposited on highway to secure that it is properly lighted) there shall be inserted the following words " and, where regulations made by the Secretary of State under this section require it to be marked in accordance with the regulations (whether with reflecting or fluorescent material or otherwise), that it is so marked " .

## **66 Powers exercisable in relation to harbour authorities in the interests of national defence**

- (1) If it appears to the Secretary of State that there is anything which a harbour authority ought in the interests of national defence—
- (a) to have power to do in connection with any harbour which they are engaged in improving, maintaining or managing; or
  - (b) to be required to do in connection with any such harbour ;
- he may authorise or direct the authority to do that thing.
- (2) No limitation on the powers of a harbour authority contained in any statutory provision, whenever passed or made, shall prevent the authority from acting in accordance with an authorisation or direction given under subsection (1) above.
- (3) A harbour authority or any other person who suffers injury, loss or damage in consequence of anything done in pursuance of an authorisation or direction given under subsection (1) above shall be entitled to receive from the Secretary of State such compensation as may be agreed or as may, in default of agreement, be determined by arbitration to be just having regard to all the circumstances of the particular case.
- (4) An arbitration under subsection (3) above shall, unless otherwise agreed, be the arbitration—
- (a) in England and Wales or Northern Ireland, of a single arbitrator to be appointed by the Lord Chancellor; and
  - (b) in Scotland, of a single arbiter to be appointed by the Lord President of the Court of Session.
- (5) Any compensation payable by the Secretary of State under this section shall be paid out of money provided by Parliament.

- (6) Any authorisation or direction given to a harbour authority by the Secretary of State under subsection (1) above shall be in writing; and it shall be the duty of any harbour authority to comply with any directions given to them under that subsection.
- (7) In this section "harbour", "harbour authority" and " statutory provision " have—
- (a) in relation to England, Wales and Scotland, the same meaning as in the Harbours Act 1964 ; and
  - (b) in relation to Northern Ireland, the same meaning as in the Harbours Act (Northern Ireland) 1970.

#### **67 Extended pension provision for members of transport Boards**

In paragraph 8 of Schedule 1 to the Transport Act 1962 (salaries, pensions etc. of members of Boards of nationalised transport industries), in sub-paragraph (1)(b) (Minister may determine pensions to be paid on the retirement or death of members of Boards), for the words " on the retirement or death " there shall be substituted the words " in the case ".

#### **68 Refusal or withdrawal of disabled person's badges**

In section 21 of the Chronically Sick and Disabled Persons Act 1970 (badges for display on motor vehicles used by disabled persons) after subsection (7) there shall be inserted the following subsections—

- “(7A) Where the prescribed conditions are met in the case of any person, then—
- (a) if he applies to a local authority for the issue of a badge under this section, the authority may by notice refuse the application ; and
  - (b) if he holds a badge issued under this section by the authority, the authority may by notice require him to return the badge to them.

The conditions that may be prescribed for the purposes of this subsection are conditions relating to the misuse of badges issued under this section.

- (7B) A notice under subsection (7A) above may be given by post.
- (7C) A person whose application is refused under subsection (7A) above or who is required to return his badge under that subsection may, within the prescribed time, appeal to the Secretary of State who may confirm or reverse the decision of the local authority ; and, if he reverses it, the authority shall issue a badge accordingly or, as the case may be, the requirement to return the badge shall cease to have effect.
- (7D) A badge which is required to be returned to the issuing authority by virtue of subsection (6) above may not be displayed on any vehicle ; and a badge which is required to be so returned by virtue of a notice under subsection (7A) above shall be returned within the prescribed time and may not be displayed on any vehicle after that time.
- (7E) Regulations under this section may provide for the procedure to be followed in connection with appeals under subsection (7C) above; but the Secretary of State shall consult with the Council on Tribunals before making regulations that so provide.”.

## **69 Evidence in certain proceedings in Scotland**

- (1) In any proceedings in Scotland for an offence referred to in subsection (2) below it shall be lawful to convict the accused on the evidence of one witness.
- (2) The offence referred to in subsection (1) above is any offence created by or under an enactment and punishable on summary conviction, being an offence committed in respect of a vehicle—
  - (a) by its being on a road during the hours of darkness as defined by section 82 of the 1972 Act without the lights or reflectors required by law ; or
  - (b) by its obstructing a road, or waiting, or being left or parked, or being loaded or unloaded, in a road ; or
  - (c) by the non-payment of a charge made at a street parking place; or
  - (d) by its being used in contravention of any provision of an order made or having effect as if made under section 1, 6 or 9, or of regulations made or having effect as if made under section 11 of the 1967 Act, being a provision—
    - (i) as to the route to be followed by vehicles of the class to which that vehicle belongs ; or
    - (ii) as to roads or parts of carriageways which are not to be used for traffic by such vehicles ; or
    - (iii) as to the places where such vehicles may not turn so as to face in the opposite direction to that in which they were proceeding or as to the conditions under which such vehicles may so turn ; or
  - (e) by its being used or kept on a public road within the meaning of the Vehicles (Excise) Act 1971 without a licence under that Act being exhibited on the vehicle in the manner prescribed under that Act.

## **70 Payments in respect of applicants for exemption from wearing seat belts**

- (1) The Secretary of State may make payments out of money provided by Parliament in respect of the examination of applicants falling within any class mentioned in subsection (2) below, being applicants for medical certificates required as a condition of any exception prescribed by regulations under section 33A or 33B of the 1972 Act (wearing of seat belts).
- (2) The classes referred to in subsection (1) above are—
  - (a) those in receipt of—
    - (i) attendance allowance under section 35 of the Social Security Act 1975 ;
    - (ii) mobility allowance under section 37A of that Act;
    - (iii) disablement pension under section 57 of that Act at a weekly rate increased by virtue of section 61(1) of that Act (constant attendance needed); or
    - (iv) an allowance under article 14 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1978 (constant attendance allowance);
  - (b) those in receipt of—
    - (i) family income supplement; or
    - (ii) any benefit under the Supplementary Benefits Act 1976;and their dependants ;

- (c) those provided with invalid carriages or other vehicles under subsection (1) of section 46 of the National Health Service (Scotland) Act 1978 or in receipt of grants under subsection (3) of that section in respect of invalid carriages or other vehicles which belong to them; and
  - (d) those whose names are in the register of disabled persons maintained under section 6 of the Disabled Persons (Employment) Act 1944.
- (3) The Secretary of State may by order amend subsection (2) above (whether as originally enacted or as previously amended under this subsection) so as to omit any of the classes mentioned in that subsection or add to or substitute for any of those classes other classes of any description.

## 71 Northern Ireland

An Order in Council under paragraph 1(1) (b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of section 70 of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House.

### *Supplemental*

## 72 Application to Crown

The following provisions of this Act, that is to say—

- (a) section 25 ; and
- (b) sections 53 and 54 ;

apply to vehicles and persons in the public service of the Crown.

## 73 Regulations and orders

- (1) Subject to subsection (2) below, any power conferred by this Act on the Secretary of State to make any order or regulations shall be exercisable by statutory instrument.
- (2) An order approving a type of device or appliance for use as an immobilisation device for the purposes of section 53 of this Act shall not be made by statutory instrument.
- (3) Before making—
  - (a) an order under section 29(2) or (5) of this Act;
  - (b) an order to which section 55(6) of this Act applies; or
  - (c) regulations under section 49(1) of this Act;
 the Secretary of State shall consult with such representative organisations as he thinks fit.
- (4) Any statutory instrument containing regulations or an order made under any provision of this Act, except an order made under section 5(5) or 76(2) of this Act or an order to which section 55(6) of this Act applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations made under this Act may—

- (a) make different provision for different cases ; and
- (b) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the regulations.

#### **74 Minor and consequential amendments and repeals**

- (1) The enactments specified in Schedule 5 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.
- (2) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but the repeal in the Heavy Commercial Vehicles (Controls and Regulations) Act 1973 is subject to the saving in section 56(3) of this Act.

#### **75 General interpretation**

In this Act—

- " the 1967 Act" means the Road Traffic Regulation Act 1967;
- " the 1972 Act " means the Road Traffic Act 1972 ;
- " prescribed " means prescribed by regulations made by the Secretary of State ; and
- " road " means any highway and any other road to which the public has access, and includes bridges over which a road passes.

#### **76 Citation, commencement and extent**

- (1) This Act may be cited as the Transport Act 1982.
- (2) Subject to subsection (3) below, this Act shall come into force on such day or days as the Secretary of State may by order appoint, and different days may be appointed for different purposes.
- (3) Sections 53 to 56 of this Act and paragraph 18 (except sub-paragraph (a)) of Schedule 5 to this Act shall come into force on the passing of this Act.
- (4) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Secretary of State necessary or expedient in connection with the provisions brought (wholly or partly) into force by the order.
- (5) Without prejudice to the generality of subsection (4) above, the transitional provisions included by virtue of that subsection in any order bringing section 52 of and Schedule 4 to this Act into force may provide for applying Part V of the Transport Act 1968 as amended by that Schedule to operators' licences granted under Part V before the order comes into operation with such modifications as appear to the Secretary of State to be appropriate.
- (6) Except for Part I of this Act and the provisions mentioned in subsection (7) below, this Act shall not extend to Northern Ireland.
- (7) The provisions referred to in subsection (6) above are—
  - (a) sections 66, 67 and 71 of this Act; and

*Status: This is the original version (as it was originally enacted).*

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- (b) the amendments in paragraphs 5 and 20 of Schedule 5 to this Act of, respectively, section 48(2) of the Transport Act 1968 and Part III of Schedule 1 to the House of Commons Disqualification Act 1975.
- (8) In subsection (4) above, " statutory provision " means a provision contained in an Act or in subordinate legislation within the meaning of the Interpretation Act 1978.