

## SCHEDULES

### SCHEDULE 5

Section 19

#### VEHICLE EXCISE DUTY: REGISTERED VEHICLES ETC

- 1 The Vehicle Excise and Registration Act 1994 (c. 22) is amended as follows.
- 2 For section 1(1) substitute—
- “(1) A duty of excise (“vehicle excise duty”) shall be charged in respect of every mechanically propelled vehicle that—
- (a) is registered under this Act (see section 21), or
  - (b) is not so registered but is used, or kept, on a public road in the United Kingdom.
- (1A) Vehicle excise duty shall also be charged in respect of every thing (whether or not it is a vehicle) that has been, but has ceased to be, a mechanically propelled vehicle and—
- (a) is registered under this Act, or
  - (b) is not so registered but is used, or kept, on a public road in the United Kingdom.
- (1B) In the following provisions of this Act “vehicle” means—
- (a) a mechanically propelled vehicle, or
  - (b) any thing (whether or not it is a vehicle) that has been, but has ceased to be, a mechanically propelled vehicle.
- (1C) Vehicle excise duty charged in respect of a vehicle by subsection (1)(a) or (1A)(a) shall be paid on a licence to be taken out—
- (a) by the person in whose name the vehicle is registered under this Act, or
  - (b) if that person is not the person keeping the vehicle, by either of those persons.
- (1D) Vehicle excise duty charged in respect of a vehicle by subsection (1)(b) or (1A)(b) shall be paid on a licence to be taken out by the person keeping the vehicle.”.
- 3 For section 2(2) to (4) (rates where duty charged in respect of keeping but not use) substitute—
- “(2) Subsection (1) applies subject to the following provisions of this section.
- (3) Where vehicle excise duty is charged by section 1(1)(b) or (1A)(b) in respect of the keeping of a vehicle on a road (and not in respect of its use), duty in respect of such keeping is chargeable by reference to the general rate currently specified in paragraph 1(2) of Schedule 1.
- (4) Subsections (5) and (6) apply where—

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- (a) vehicle excise duty is charged by section 1(1)(a) or (1A)(a) in respect of a vehicle, and
  - (b) were the vehicle not registered under this Act, duty would not be charged by section 1(1)(b) or (1A)(b) in respect of the use of the vehicle on a road.
- (5) Where one or more use licences have previously been issued for the vehicle, the duty charged by section 1(1)(a) or (1A)(a) is chargeable by reference to the annual rate currently applicable to a vehicle of the same description as that of the vehicle on the occasion of the issue of that licence (or the last of those licences).
- (6) In any other case, the duty charged by section 1(1)(a) or (1A)(a) is chargeable by reference to the general rate currently specified in paragraph 1(2) of Schedule 1.
- (7) In subsection (5) “use licence” means—
- (a) a vehicle licence issued for the use of a vehicle, or
  - (b) a vehicle licence that is issued by reason of a vehicle being registered under this Act but which would have been issued for the use of the vehicle if the vehicle had not been registered under this Act.”.
- 4 For section 7(4) (vehicle licence valid only for vehicle for which it is issued) substitute—
- “(4) A vehicle licence is issued for the vehicle specified in the application for the licence (and for no other).”.
- 5 After section 7 insert—

**“7A Supplement payable on late renewal of vehicle licence**

- (1) Regulations may make provision for a supplement of a prescribed amount to be payable in prescribed cases where—
- (a) a vehicle licence taken out for a vehicle expires, and
  - (b) no vehicle licence is issued for the vehicle—
    - (i) before the end of such period beginning with the expiry of the expired licence as may be prescribed, and
    - (ii) for a period beginning with that expiry.
- (2) A supplement under this section—
- (a) shall be payable by such person, or jointly and severally by such persons, as may be prescribed;
  - (b) shall become payable at such time as may be prescribed;
  - (c) may be of an amount that varies according to the length of the period between—
    - (i) the expiry of the licence by reason of whose non-renewal the supplement becomes payable, and
    - (ii) the time at which the supplement is paid or that licence is renewed.
- (3) A supplement under this section that has become payable—

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- (a) is in addition to any vehicle excise duty charged in respect of the vehicle concerned;
  - (b) does not cease to be payable by reason of a vehicle licence being taken out for the vehicle after the supplement has become payable;
  - (c) may, without prejudice to section 6 or 7B(2) and (3) or any other provision of this Act, be recovered as a debt due to the Crown.
- (4) In this section—
- (a) references to the expiry of a vehicle licence include a reference to—
    - (i) its surrender, and
    - (ii) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section;
  - (b) “prescribed” means prescribed by, or determined in accordance with, regulations;
  - (c) “regulations” means regulations made by the Secretary of State with the consent of the Treasury.
- (5) No regulations to which subsection (6) applies shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (6) This subsection applies to regulations under this section that—
- (a) provide for a supplement to be payable in a case where one would not otherwise be payable,
  - (b) increase the amount of a supplement,
  - (c) provide for a supplement to become payable earlier than it would otherwise be payable, or
  - (d) provide for a supplement to be payable by a person by whom the supplement would not otherwise be payable.

### **7B Late-renewal supplements: further provisions**

- (1) The Secretary of State may by regulations make provision for notifying the person in whose name a vehicle is registered under this Act about—
- (a) any supplement under section 7A that may or has become payable on non-renewal of a vehicle licence for the vehicle;
  - (b) when failure to renew a vehicle licence may result in the person being guilty of an offence under section 31A.
- (2) The Secretary of State may by regulations make provision—
- (a) for assessing an amount of supplement due under section 7A from any person and for notifying that amount to that person or any person acting in a representative capacity in relation to that person;
  - (b) for an amount assessed and notified under such regulations to be deemed to be an amount of vehicle excise duty due from the person assessed and recoverable accordingly;
  - (c) for review of decisions under such regulations and for appeals with respect to such decisions or decisions on such reviews.

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- (3) Regulations under subsection (2) may, in particular, make provision that, subject to any modifications that the Secretary of State considers appropriate, corresponds or is similar to—
- (a) any provision made by sections 12A and 12B of the Finance Act 1994 (assessments related to excise duty matters), or
  - (b) any provision made by sections 14 to 16 of that Act (customs and excise reviews and appeals).
- (4) Sums received by way of supplements under section 7A shall be paid into the Consolidated Fund.”.
- 6 (1) In section 22 (registration regulations), in subsection (1D) (power to require details about unlicensed vehicles), after paragraph (a) insert—
- “(aa) who does not renew a vehicle licence for a vehicle registered under this Act in his name,”.
- (2) After that subsection insert—
- “(1DA) For the purposes of subsection (1D)(aa) a person shall be regarded as not renewing a vehicle licence for a vehicle registered in his name if—
- (a) a vehicle for which a vehicle licence is in force is registered in his name, and
  - (b) he does not, at such time as may be prescribed by the regulations or within such period as may be so prescribed, take out a vehicle licence to have effect from the expiry of the vehicle licence mentioned in paragraph (a).”.
- 7 In section 29(7) (rate of duty by reference to which penalty is calculated), for “section 2(2) to (4)” substitute “section 2(3) to (6)”.
- 8 After section 31 insert—

*“Offence of being registered keeper of unlicensed vehicle*

### **31A Offence by registered keeper where vehicle unlicensed**

- (1) If a vehicle registered under this Act is unlicensed, the person in whose name the vehicle is registered is guilty of an offence.
- (2) For the purposes of this section a vehicle is unlicensed if no vehicle licence or trade licence is in force for or in respect of the vehicle.
- (3) Subsection (1) does not apply to a vehicle if—
  - (a) it is an exempt vehicle in respect of which regulations under this Act require a nil licence to be in force and a nil licence is in force in respect of the vehicle, or
  - (b) it is an exempt vehicle that is not one in respect of which regulations under this Act require a nil licence to be in force.
- (4) Where a vehicle for which a vehicle licence is in force is transferred by the holder of the licence to another person, the licence is to be treated for the purposes of subsection (2) as no longer in force unless it is delivered to the other person with the vehicle.

- (5) Where—
- (a) an application is made for a vehicle licence for any period, and
  - (b) a temporary licence is issued pursuant to the application,
- subsection (4) does not apply to the licence applied for if, on a transfer of the vehicle during the currency of the temporary licence, the temporary licence is delivered with the vehicle to the transferee.

### **31B Exceptions to section 31A**

- (1) A person (“the registered keeper”) in whose name an unlicensed vehicle is registered at any particular time (“the relevant time”) does not commit an offence under section 31A at that time if any of the following conditions are satisfied.
- (2) The first condition is that the registered keeper—
- (a) is not at the relevant time the person keeping the vehicle, and
  - (b) if previously he was the person keeping the vehicle, he has by the relevant time complied with any requirements under section 22(1) (d)—
    - (i) that are prescribed for the purposes of this condition, and
    - (ii) that he is required to have complied with by the relevant or any earlier time.
- (3) The second condition is that—
- (a) the registered keeper is at the relevant time the person keeping the vehicle,
  - (b) at the relevant time the vehicle is neither kept nor used on a public road, and
  - (c) the registered keeper has by the relevant time complied with any requirements under section 22(1D)—
    - (i) that are prescribed for the purposes of this condition, and
    - (ii) that he is required to have complied with by the relevant or any earlier time.
- (4) The third condition is that—
- (a) the vehicle has been stolen before the relevant time,
  - (b) the vehicle has not been recovered by the relevant time, and
  - (c) any requirements under subsection (6) that, in connection with the theft, are required to have been complied with by the relevant or any earlier time have been complied with by the relevant time.
- (5) The fourth condition is that the relevant time falls within a period (“the grace days”)—
- (a) beginning with the expiry of the last vehicle licence to be in force for the vehicle, and
  - (b) of a prescribed length,
- and a vehicle licence for the vehicle is taken out within the grace days for a period beginning with the grace days.

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- (6) The Secretary of State may by regulations make provision for the purposes of subsection (4)(c) as to the persons to whom, the times at which and the manner in which the theft of a vehicle is to be notified.
- (7) The Secretary of State may by regulations make provision amending this section for the purpose of providing for further exceptions to section 31A(1) (or varying or revoking any such further exceptions).
- (8) A person accused of an offence under section 31A(1) is not entitled to the benefit of an exception conferred by or under this section unless evidence is adduced that is sufficient to raise an issue with respect to that exception, but where evidence is so adduced it is for the prosecution to prove beyond reasonable doubt that the exception does not apply.
- (9) In this section—
  - (a) references to the expiry of a vehicle licence include a reference to—
    - (i) its surrender, and
    - (ii) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section;
  - (b) “prescribed” means prescribed by regulations made by the Secretary of State.

### **31C Penalties for offences under section 31A**

- (1) A person guilty of an offence under section 31A(1) is liable on summary conviction to—
  - (a) an excise penalty of—
    - (i) level 3 on the standard scale, or
    - (ii) five times the amount of vehicle excise duty chargeable in respect of the vehicle concerned,
 whichever is the greater; and
  - (b) if subsection (3) applies to him, an excise penalty (in addition to any under paragraph (a)) of an amount that complies with subsection (2).
- (2) An amount complies with this subsection if it—
  - (a) is not less than the greater of—
    - (i) the maximum of the penalty to which the person is liable under subsection (1)(a), and
    - (ii) the amount of the supplement (if any) that became payable by him by reason of non-renewal of the vehicle licence for the vehicle that last expired before the commission of the offence; and
  - (b) is not more than the greatest of—
    - (i) the maximum of the penalty to which the person is liable under subsection (1)(a),
    - (ii) the amount mentioned in paragraph (a)(ii), and
    - (iii) ten times the amount of vehicle excise duty chargeable in respect of the vehicle.
- (3) This subsection applies to the person if—

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- (a) he was, at the time proceedings for the offence were commenced, the person in whose name the vehicle concerned was registered under this Act, and
  - (b) that vehicle was unlicensed throughout the period beginning with the commission of the offence and ending with the commencement of those proceedings.
- (4) The amount of vehicle excise duty chargeable in respect of a vehicle is to be taken for the purposes of subsections (1) and (2) to be an amount equal to the annual rate of duty applicable to the vehicle at the date on which the offence was committed.
- (5) Where in the case of a vehicle kept (but not used) on a public road that annual rate differs from the annual rate by reference to which the vehicle was at that date chargeable under section 2(3) to (6), the amount of the vehicle excise duty chargeable in respect of the vehicle is to be taken for those purposes to be an amount equal to the latter rate.
- (6) In the case of a conviction for a continuing offence, the offence is to be taken for the purposes of subsections (4) and (5) to have been committed on the date or latest date to which the conviction relates.
- (7) In this section, references to the expiry of a vehicle licence include a reference to—
- (a) its surrender, and
  - (b) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section.

*Offences under sections 29 and 31A: supplementary”.*

- 9 (1) In section 32 (sections 29 to 31: supplementary), in subsection (1) (discharges to be treated as convictions)—
- (a) in the words before paragraph (a), after “section 29” insert “or 31A”, and
  - (b) in the words after paragraph (c), after “sections 29 to 31” insert “or (as the case may be) sections 31A to 31C”.
- (2) In the heading of that section, for “31” substitute “31C”.
- 10 In section 33(3)(b) (offences of not exhibiting licence are without prejudice to offences of not having a licence), after “sections 29” insert “, 31A”.
- 11 In section 34(4) (rate of duty by reference to which penalty is calculated), for “section 2(2) to (4)” substitute “section 2(3) to (6)”.
- 12 In section 47 (proceedings in England and Wales or Northern Ireland), in each of subsections (1) and (2)(a) (who may prosecute and time limit), after “section 29,” insert “31A,”.
- 13 In section 48(3)(a) (proceedings in Scotland: time limit), after “section 29,” insert “31A,”.
- 14 In section 53 (burden of proof of certain matters in proceedings for certain offences), after “section 29,” insert “31A,”.
- 15 In section 54 (single witness sufficient in Scottish proceedings), after “section 29” insert “, 31A”.

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- 16 In section 57 (regulations), after subsection (7) insert—  
“(7A) Subsection (7) does not apply to a statutory instrument containing regulations under section 7A to which subsection (6) of that section applies.”.
- 17 In section 62(1) (definitions), for the definition of “vehicle” substitute—  
““vehicle” shall be construed in accordance with section 1(1B);”.