



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART I **U.K.**

TRIAL

Introductory

1 **Requirement of warning etc. of prosecutions for certain offences.** **E+W+S**

- (1) Subject to section 2 of this Act, where a person is prosecuted for an offence to which this section applies, he is not to be convicted unless—
- (a) he was warned at the time the offence was committed that the question of prosecuting him for some one or other of the offences to which this section applies would be taken into consideration, or
 - (b) within fourteen days of the commission of the offence a summons (or, in Scotland, a complaint) for the offence was served on him, or
 - (c) within fourteen days of the commission of the offence a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was—
 - (i) in the case of an offence under section 28 or 29 of the ^{M1}Road Traffic Act 1988 (cycling offences), served on him,
 - (ii) in the case of any other offence, served on him or on the person, if any, registered as the keeper of the vehicle at the time of the commission of the offence.
- (2) A notice shall be deemed for the purposes of subsection (1)(c) above to have been served on a person if it was sent by registered post or recorded delivery service addressed to him at his last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by him.
- (3) The requirement of subsection (1) above shall in every case be deemed to have been complied with unless and until the contrary is proved.
- (4) Schedule 1 to this Act shows the offences to which this section applies.

Status: Point in time view as at 01/04/1991.

Changes to legislation: Road Traffic Offenders Act 1988, Cross Heading: Introductory is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C1 Ss. 1, 2 excluded by [Road Traffic Act 1988 \(c. 52, SIF 107:1\)](#), s. 193, Sch. 4 paras. 8, 11

Marginal Citations

M1 [1988 c. 52](#).

2 Requirement of warning etc: supplementary. E+W+S

- (1) The requirement of section 1(1) of this Act does not apply in relation to an offence if, at the time of the offence or immediately after it, an accident occurs owing to the presence on a road of the vehicle in respect of which the offence was committed.
- (2) The requirement of section 1(1) of this Act does not apply in relation to an offence in respect of which—
 - (a) a fixed penalty notice (within the meaning of Part III of this Act) has been given or fixed under any provision of that Part, or
 - (b) a notice has been given under section 54(4) of this Act.
- (3) Failure to comply with the requirement of section 1(1) of this Act is not a bar to the conviction of the accused in a case where the court is satisfied—
 - (a) that neither the name and address of the accused nor the name and address of the registered keeper, if any, could with reasonable diligence have been ascertained in time for a summons or, as the case may be, a complaint to be served or for a notice to be served or sent in compliance with the requirement, or
 - (b) that the accused by his own conduct contributed to the failure.
- (4) Where a person is prosecuted on indictment in England and Wales—
 - (a) for an offence to which section 1 of this Act does not apply, or
 - (b) for an offence to which that section does apply, but as respects which the requirement of subsection (1) of that section has been satisfied,
 that subsection does not prejudice any power of the jury on the charge for that offence, if they find him not guilty of it, to find him guilty of an offence under section 2 or 3 of the ^{M2}Road Traffic Act 1988 (reckless driving or careless or inconsiderate driving).
- (5) In Scotland a person may be convicted of an offence under section 2 of that Act by virtue of section 23(1) or (2) of this Act notwithstanding that the requirement of section 1(1) of this Act has not been satisfied as respects that offence.
- (6) A person may be convicted of an offence under section 3 or 29 of that Act (careless and inconsiderate driving or careless and inconsiderate cycling) notwithstanding that the requirement of section 1(1) of this Act has not been satisfied as respects that offence where—
 - (a) the charge for the offence has been preferred against him by virtue of section 24(3) of this Act, and
 - (b) that requirement has been satisfied as respects the alleged offence under section 2 or, as the case may be, 28 of that Act (reckless driving or reckless cycling).

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Modifications etc. (not altering text)

C2 Ss. 1, 2 excluded by [Road Traffic Act 1988 \(c. 52, SIF 107:1\)](#), s. 193, Sch. 4 paras. 8, 11

Marginal Citations

M2 [1988 c. 52](#).

3 **Restriction on institution of proceedings for certain offences.** **E+W+S**

[^{F1}(1) . . .

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- (2) In England and Wales, proceedings for an offence under section 94(3) of the Road Traffic Act 1988 (notice about relevant or prospective disability) shall not be instituted except by the Secretary of State or by a constable acting with the approval of the Secretary of State.

Textual Amendments

F1 S. 3(1) repealed (1.4.1991) by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 16, Sch. 6

4 **Offences for which local authorities in England and Wales may institute proceedings.** **E+W**

- (1) The council of a county, metropolitan district or London Borough or the Common Council of the City of London may institute proceedings for an offence under section 17 or 18 of the Road Traffic Act 1988 (helmets and other head-worn appliances for motor cyclists).
- (2) The council of a county, metropolitan district or London Borough or the Common Council of the City of London may institute proceedings for an offence under section 27 of that Act (dogs on roads) relating to a road in their area.
- (3) The council of a county, district or London borough or the Common Council of the City of London may institute proceedings for offences under section [^{F2}35A(1), (2) or (5)] of the ^{M3}Road Traffic Regulation Act 1984 which are committed in connection with parking places provided by the council, or provided under any letting arrangements made by the council under section 33(4) of that Act.
- (4) The council of a county, metropolitan district or London borough or the Common Council of the City of London may institute proceedings for an offence under section 47 or 52 of the Road Traffic Regulation Act 1984 in connection with a designated parking place controlled by the council.
- (5) In England, the council of a county or metropolitan district and, in Wales, the council of a county or district may institute proceedings for an offence under section 53 of the Road Traffic Regulation Act 1984 in connection with a designated parking place in the council's area except, in Wales, any parking place for which another council has responsibility.

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- (6) In this section “parking place” means a place where vehicles, or vehicles of any class, may wait and “designated parking place” has the same meaning as in the ^{M4}Road Traffic Regulation Act 1984.
- (7) This section extends to England and Wales only.

Textual Amendments

F2 Words substituted by [Parking Act 1989 \(c. 16, SIF 107:1\)](#), s. 4, **Sch. para. 10**

Marginal Citations

M3 1984 c. 27.

M4 1984 c. 27.

5 Exemption from Licensing Act offence. **E+W+S**

A person liable to be charged with an offence under section 4, 5, 7 or 30 of the ^{M5}Road Traffic Act 1988 (drink and drugs) is not liable to be charged under section 12 of the ^{M6}Licensing Act 1872 with the offence of being drunk while in charge, on a highway or other public place, of a carriage.

Marginal Citations

M5 1988 c. 52.

M6 1872 c. 94.

6 Time within which summary proceedings for certain offences must be commenced. **E+W+S**

- (1) Subject to subsection (2) below, summary proceedings for an offence to which this section applies 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.
- (2) No such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.
- (3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (5) In relation to proceedings in Scotland, subsection (3) of section 331 of the ^{M7}Criminal Procedure (Scotland) Act 1975 (date of commencement of proceedings) shall apply for the purposes of this section as it applies for the purposes of that.
- (6) Schedule 1 to this Act shows the offences to which this section applies.

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Modifications etc. (not altering text)

C3 S. 6 applied (1.1.1996) by 1995 c. 23, ss. 51, 61 (with ss. 54, 55)

Marginal Citations

M7 1975 c. 21.

7 Duty of accused to provide licence. E+W+S

A person who is prosecuted for an offence involving obligatory endorsement and who is the holder of a licence must—

- (a) cause it to be delivered to the clerk of the court not later than the day before the date appointed for the hearing, or
- (b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or
- (c) have it with him at the hearing

[^{F3}and the foregoing obligations imposed on him as respects the licence also apply as respects the counterpart to the licence.]

Textual Amendments

F3 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 1

Modifications etc. (not altering text)

C4 S. 7 applied with modifications by S.I. 1987/1378, reg. 25(3) (as amended by S.I. 1990/842, reg. 9)

8 Duty to include date of birth and sex in written plea of guilty. E+W+S

A person who—

- (a) gives a notification to the clerk of a court in pursuance of section 12(2) of the ^{M8}Magistrates' Courts Act 1980 (written pleas of guilty), or
- (b) gives a written intimation of a plea of guilty in pursuance of section 334(3) of the ^{M9}Criminal Procedure (Scotland) Act 1975,

in respect of an offence involving obligatory or discretionary disqualification or of such other offence as may be prescribed by regulations under section 105 of the ^{M10}Road Traffic Act 1988, must include in the notification or intimation a statement of the date of birth and sex of the accused.

Marginal Citations

M8 1980 c. 43.

M9 1975 c. 21.

M10 1988 c. 52.

Status:

Point in time view as at 01/04/1991.

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