



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART III

#### FIXED PENALTIES

##### *Notices fixed to vehicles*

#### **62 Fixing notices to vehicles**

- (1) 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 on that occasion been committed in respect of it, he may fix a fixed penalty notice in respect of the offence to the vehicle unless the offence appears to him to involve obligatory endorsement.
- (2) A person is guilty of an offence if he removes or interferes with any notice fixed to a vehicle under this section, unless he does so by or under the authority of the driver or person in charge of the vehicle or the person liable for the fixed penalty offence in question.

#### **63 Service of notice to owner if penalty not paid**

- (1) This section applies where a fixed penalty notice relating to an offence has been fixed to a vehicle under section 62 of this Act.
- (2) Subject to subsection (3) below, if at the end of the suspended enforcement period the fixed penalty has not been paid in accordance with this Part of this Act, a notice under this section 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.

Such a notice is referred to in this Part of this Act as a “notice to owner”.

- (3) Subsection (2) above does not apply where before the end of the suspended enforcement period—

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- (a) any person has given notice requesting a hearing in respect of the offence in the manner specified in the fixed penalty notice, and
- (b) 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.

That time is referred to in this Part of this Act as the “time of the alleged offence”.

- (4) A notice to owner—
  - (a) must give particulars of the alleged offence and of the fixed penalty concerned,
  - (b) must state the period allowed for response to the notice, and
  - (c) must 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 provide 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 4 to this Act).
- (5) For the purposes of this Part of this Act, 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.
- (6) A notice to owner relating to any offence must indicate that the person on whom it is served may, before the end of the period allowed 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—
    - (i) he was not the driver of the vehicle at the time of the alleged offence, and
    - (ii) a person purporting to be the driver wishes to give notice requesting a hearing in respect of the offence,
 provide, together with a statutory statement of ownership provided as requested in that notice, a statutory statement of facts (as defined by Part II of Schedule 4 to this Act) having the effect referred to in paragraph 3(2) of that Schedule (that is, as a notice requesting a hearing in respect of the offence given by the driver).
- (7) In any case where a person on whom a notice to owner relating to any offence has been served provides a statutory statement of facts in pursuance of subsection (6)(b) above—
  - (a) any notice requesting a hearing in respect of the offence that he purports to give on his own account shall be of no effect, and
  - (b) no sum may be registered for enforcement against him as a fine in respect of the offence unless, within the period of two months immediately following the period allowed for response to the notice to owner, no summons or, in Scotland, complaint in respect of the offence in question is served on the person identified in the statement as the driver.

## **64 Enforcement or proceedings against owner**

- (1) This section applies where—
  - (a) a fixed penalty notice relating to an offence has been fixed to a vehicle under section 62 of this Act,

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- (b) a notice to owner relating to the offence has been served on any person under section 63(2) of this Act before the end of the period of six months beginning with the day on which the fixed penalty notice was fixed to the vehicle, and
  - (c) the fixed penalty has not been paid in accordance with this Part of this Act before the end of the period allowed for response to the notice to owner.
- (2) Subject to subsection (4) below and to section 63(7)(b) of this Act, a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 71 of this Act for enforcement against the person on whom the notice to owner was served as a fine.
- (3) Subject to subsection (4) below and to section 65 of this Act, proceedings may be brought in respect of the offence against the person on whom the notice to owner was served.
- (4) If the person on whom the notice to owner was served—
  - (a) was not the owner of the vehicle at the time of the alleged offence, and
  - (b) provides a statutory statement of ownership to that effect in response to the notice before the end of the period allowed for response to the notice,he shall not be liable in respect of the offence by virtue of this section nor shall any sum determined by reference to the fixed penalty for the offence be so registered by virtue of this section for enforcement against him as a fine.
- (5) Subject to subsection (6) below—
  - (a) for the purposes of the institution of proceedings by virtue of subsection (3) 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.
- (6) That presumption does not apply in any proceedings brought against any person by virtue of subsection (3) 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.
- (7) Where—
  - (a) by virtue of subsection (3) above proceedings may be brought in respect of an offence against a person on whom a notice to owner was served, and
  - (b) section 74(1) 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 (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.

## **65 Restrictions on proceedings against owner and others**

- (1) In any case where a notice to owner relating to an offence may be served under section 63 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

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identified as the driver of the vehicle at the time of the alleged offence in a statutory statement of facts provided in pursuance of section 63(6)(b) of this Act by a person on whom such a notice has been served.

- (2) Proceedings in respect of an offence to which a notice to owner relates shall not be brought against the person on whom the notice was served unless, before the end of the period allowed for response to the notice, he has given notice, in the manner indicated by the notice to owner, requesting a hearing in respect of the offence.
- (3) 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 provided 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 the notice.
- (4) Once any sum determined by reference to the fixed penalty for an offence has been registered by virtue of section 64 of this Act under section 71 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.

## **66      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 for response to the notice the firm provides the chief officer of police by or on whose behalf the notice was served with 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 63, 64 and 65 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 include references to a notice served under section 63 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 81(2)(b) of or Part I of Schedule 4 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 provided may, at any reasonable time within six months after service of the notice to owner (and on the 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 64 of this Act 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 provide 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 the terms and conditions so specified.
- (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.

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

A person who, in response to a notice to owner, provides a statement which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.

## **68 “Owner”, “statutory statement” and “official form”**

- (1) 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 64(3) 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.
- (2) Notwithstanding the presumption in subsection (1) above, it is 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.
- (3) References in this Part of this Act to statutory statements of any description are references to the statutory statement of that description defined in Schedule 4 to this Act; and that Schedule shall also have effect for the purpose of requiring certain information to be provided in official forms for the statutory statements so defined to

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assist persons in completing those forms and generally in determining what action to take in response to a notice to owner.

- (4) In this Part of this Act “official form”, in relation to a statutory statement mentioned in Schedule 4 to this Act or a statement under section 66(2) of this Act, means a document supplied by or on behalf of a chief officer of police for use in making that statement.