



Road Safety Act 2006

2006 CHAPTER 49

New system of endorsement

8 Driving record

In the Road Traffic Offenders Act 1988 (c. 53), after section 97 insert—

“97A Meaning of “driving record”

- (1) In this Act “driving record”, in relation to a person, means a record in relation to the person maintained by the Secretary of State and designed to be endorsed with particulars relating to offences committed by the person under the Traffic Acts.
- (2) The Secretary of State may make arrangements for the following persons to have access, by such means as the Secretary of State may determine, to information held on a person’s driving record—
 - (a) courts,
 - (b) constables,
 - (c) fixed penalty clerks,
 - (d) the person in respect of whom the record is maintained and persons authorised by him, and
 - (e) other persons prescribed in regulations made by the Secretary of State.
- (3) The power to make regulations under subsection (2)(e) above shall be exercisable by statutory instrument.
- (4) No regulations shall be made under subsection (2)(e) above unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.”

9 Unlicensed and foreign drivers

- (1) The Road Traffic Offenders Act 1988 is amended as follows.

(2) In section 44 (endorsement of licences)—

(a) after subsection (3) insert—

“(3A) Where a person who is not the holder of a licence is convicted of an offence involving obligatory endorsement, subsection (1) above applies as if the reference to the counterpart of any licence held by him were a reference to his driving record.”, and

(b) for the heading substitute “**Orders for endorsement**”.

(3) After that section insert—

“44A Endorsement of driving record in accordance with order

(1) Where the court orders the endorsement of a person’s driving record with any particulars or penalty points it must send notice of the order to the Secretary of State.

(2) On receiving the notice, the Secretary of State must endorse those particulars or penalty points on the person’s driving record.

(3) A notice sent by the court to the Secretary of State in pursuance of this section must be sent in such manner and to such address and contain such particulars as the Secretary of State may require.”

(4) In section 54 (notices on-the-spot etc.), after subsection (5) insert—

“(5A) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, and the person is not the holder of a licence, the constable or vehicle examiner may only give him a fixed penalty notice under subsection (2) above in respect of the offence if the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence.

(5B) Subsection (5C) below applies where—

(a) the offence appears to the constable or vehicle examiner to involve obligatory endorsement,

(b) the person concerned is not the holder of a licence, and

(c) the constable or vehicle examiner is unable to satisfy himself, by accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence.

(5C) Where this subsection applies, the constable or vehicle examiner may give the person a notice stating that if—

(a) he delivers the notice in accordance with subsection (5D) below, and

(b) the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of the offence,

he will then be given a fixed penalty notice in respect of the offence.

(5D) Delivery must—

- (a) if the notice is given by a constable, be made in person, within seven days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or
- (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within fourteen days after the notice is given, to the Secretary of State at the place specified in the notice.

(5E) If a person to whom a notice has been given under subsection (5C) above delivers the notice in accordance with subsection (5D) above, and the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of the offence, that person must give him a fixed penalty notice in respect of the offence to which the notice under subsection (5C) relates.”

(5) After section 57 insert—

“57A Endorsement of driving records without hearings

- (1) Subject to subsection (2) below, where a person who is not the holder of a licence has been given a fixed penalty notice under section 54 of this Act in respect of an offence involving obligatory endorsement, his driving record may be endorsed in accordance with this section without any order of a court.
- (2) A person’s driving record may not be endorsed under this section if at the end of the suspended enforcement period—
 - (a) he has given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of the offence to which the fixed penalty notice relates, and
 - (b) the fixed penalty has not been paid in accordance with this Part of this Act.
- (3) If payment of the fixed penalty is made before the end of the suspended enforcement period and the person to whom the payment is made is the fixed penalty clerk, the fixed penalty clerk must send to the Secretary of State notice of the relevant particulars which are to be endorsed on the person’s driving record.
- (4) Where any sum determined by reference to the fixed penalty is registered under section 71 of this Act for enforcement against the person as a fine in a case where the fixed penalty is required to be paid to the fixed penalty clerk, the fixed penalty clerk must send to the Secretary of State notice of the relevant particulars which are to be endorsed on the person’s driving record—
 - (a) if he is himself the person who registers the sum, on the registration of that sum, and
 - (b) in any other case, on being notified of the registration by the person who registers that sum.
- (5) The Secretary of State must endorse the relevant particulars on the person’s driving record if—
 - (a) he receives notice of them under subsection (3) or (4) above,

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

- (b) the fixed penalty is paid to him before the end of the suspended enforcement period, or
 - (c) in a case where the fixed penalty is required to be paid to the Secretary of State, any sum determined by reference to the fixed penalty is registered under section 71 of this Act for enforcement against the person as a fine.
- (6) References in this section to the relevant particulars are to—
- (a) particulars of the offence, including the date when it was committed, and
 - (b) the number of penalty points to be attributed to the offence.”
- (6) Schedule 2 contains further amendments about the endorsement of driving records in the case of unlicensed and certain foreign drivers.

10 All drivers

- (1) The Road Traffic Offenders Act 1988 (c. 53) (as amended by section 9 and Schedule 2) is amended as follows.
- (2) In section 44 (orders for endorsement)—
- (a) in subsection (1), for “the counterpart of any licence held by him” substitute “his driving record”, and
 - (b) omit subsection (3A).
- (3) Section 54 (notices on-the-spot etc.) is amended as follows.
- (4) For subsections (3) to (5E) substitute—
- “(3) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, the constable or vehicle examiner may only give him a fixed penalty notice under subsection (2) above in respect of the offence if—
- (a) the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence, and
 - (b) in the case of a person who is the holder of a licence, he produces it for inspection by the constable or vehicle examiner and surrenders it to him to be retained and dealt with in accordance with this Part of this Act.
- (4) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, subsection (5) below applies if—
- (a) the constable or vehicle examiner is unable to satisfy himself, by accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence, or
 - (b) in the case of a person who is the holder of a licence, he does not produce it for inspection by the constable or vehicle examiner.
- (5) Where this subsection applies, the constable or vehicle examiner may give the person a notice stating that if—

- (a) he delivers the notice and (if he is the holder of a licence) his licence in accordance with subsection (5A) below, and
 - (b) the requirements of subsection (5B) below are met,
- he will then be given a fixed penalty notice in respect of the offence.

(5A) Delivery must—

- (a) if the notice is given by a constable, be made in person, within seven days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or
- (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within fourteen days after the notice is given, to the Secretary of State at the place specified in the notice.

(5B) If a person to whom a notice has been given under subsection (5) above delivers the notice and (if he is the holder of a licence) his licence in accordance with subsection (5A) above, and the following requirements are met, that is—

- (a) the person to whom the notice is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of the offence, and
- (b) if he is the holder of a licence, it is delivered to be retained and dealt with in accordance with this Part of this Act,

the person to whom the notice is delivered must give him a fixed penalty notice in respect of the offence to which the notice under subsection (5) above relates.”

- (5) In subsection (6), for “(4) or (5C)” substitute “(5)”.
- (6) In subsection (7), omit “and a counterpart of a licence”.
- (7) Omit section 57 (endorsement of counterparts without hearings).
- (8) Section 57A (endorsement of driving records without hearings) is amended as follows.
- (9) In subsection (1), omit “who is not the holder of a licence”.
- (10) In subsection (3), at the end insert “and return to that person any licence surrendered by him under section 54 of this Act.”
- (11) In subsection (4), after “record” insert “and return to that person any licence surrendered by him under section 54 of this Act”.
- (12) Schedule 3 contains further amendments about the endorsement of driving records in the case of all drivers.