



Vehicles (Excise) Act 1971 (Repealed 1.9.1994)

1971 CHAPTER 10

Liability to pay duty and consequences of non-payment thereof

8 Using and keeping vehicles without a licence.

- (1) If any person uses or keeps on a public road any mechanically propelled vehicle for which a licence is not in force, not being a vehicle exempted from duty under this Act by virtue of any enactment (including any provision of this Act), he shall be liable to the greater of the following penalties, namely—
 - (a) an excise penalty of £50; or
 - (b) an excise penalty equal to five times the amount of the duty chargeable in respect of the vehicle.
- (2) In any proceedings for an offence under this section it shall be a defence to prove that—
 - (a) while an expired vehicle licence for the vehicle was in force an application was duly made for a further vehicle licence for the vehicle to take effect from or before the expiration of the expired licence and for a period including the time in question; and
 - (b) the expired licence was at that time fixed to and exhibited on the vehicle in the manner prescribed in pursuance of section 12(4) of this Act; and
 - (c) the period between the expiration of the expired licence and that time did not exceed fourteen days.

For the purposes of paragraph (a) above an application for a further licence is made when the application is received by the Secretary of State.

- (3) For the purposes of this section—
 - (a) where a vehicle for which a vehicle licence is in force is transferred by the holder of the licence to another person, the licence shall be treated as no longer in force unless it is delivered to that other person with the vehicle;
 - (b) the amount of the duty chargeable in respect of a vehicle shall be taken to be an amount equal to the annual rate of duty applicable to the vehicle at the date

Status: Point in time view as at 03/05/1994.

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on which the offence was committed or, where in the case of a vehicle kept on a public road that rate differs from the annual rate by reference to which the vehicle was at that date chargeable under section 1 of this Act in respect of the keeping thereof, equal to the last mentioned rate.

For the purposes of paragraph (b) above the offence shall, in the case of a conviction for a continuing offence, be taken to have been committed on the date or latest date to which the conviction relates.

Modifications etc. (not altering text)

- C1** Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38** (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)
- C2** Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F** (increase of fines) and 289G (substitution of references to levels on the standard scale) apply (S.)

9 Additional liability for keeping unlicensed vehicle.

- (1) Where a person convicted of an offence under section 8 of this Act is the person by whom the vehicle in respect of which the offence was committed was kept at the time it was committed, the court shall, in addition to any penalty which it may impose under that section, order him to pay an amount calculated in accordance with subsections (2) to (4) below.
- (2) The said amount shall, subject to subsection (3) below, be an amount equal to one three-hundred-and-sixty-fifth of the annual rate of duty appropriate to the vehicle in question for each day in the relevant period, and the relevant period shall be one ending with the date of the offence and beginning—
 - (a) if the person convicted has before that date notified the Secretary of State of his acquisition of the vehicle in accordance with regulations under this Act, with the date on which the notification was received by the Secretary of State or, if later, with the expiry of the vehicle licence last in force for the vehicle, or
 - (b) in any other case, with the expiry of the vehicle licence last in force for the vehicle before the date of the offence or, if there has not at any time before that date been a vehicle licence in force for the vehicle, with the date on which the vehicle was first kept by that person:

Provided that, where the person convicted has been ordered to pay an amount under this section on the occasion of a previous conviction in respect of the same vehicle, and the offence then charged was committed after the date specified above for the beginning of the relevant period, that period shall begin instead with the day following that on which the former offence was committed.

- (3) Where the person convicted proves—
 - (a) that throughout any day comprised in the relevant period the vehicle in question was not kept by him, or
 - (b)^{F1}
 - (d) that he has paid duty in respect of the vehicle for any such day, whether or not on a licence,

the said amount shall be calculated as if that day were not comprised in the relevant period.

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- [^{F2}(3A) Where an order has previously been made against a person under section 26A of this Act to pay an amount for a month or part of a month in the case of a vehicle, the amount which he is ordered to pay under this section in the case of the vehicle shall be calculated as if no part of that month were comprised in the relevant period.]
- (4) In relation to any day comprised in the relevant period, the reference in subsection (2) above to the annual rate of duty appropriate to the vehicle in question is a reference to the annual rate applicable to it on that day; and, except so far as it is proved to have fallen within some other description for the whole of any such day, a vehicle shall be taken for the purposes of this section to have belonged throughout the relevant period to that description of vehicle to which it belonged for the purposes of duty at the date of the offence or, if the prosecution so elect, the date when a vehicle licence for it was last issued.
- (5) Where, on a person's conviction of an offence under section 8 of this Act, an order is made under [^{F3}Section 1C of the ^{M1}Powers of Criminal Courts Act 1973][^{F4}or the Probation Act (Northern Ireland) 1950][^{F5}placing him on probation or] discharging him absolutely or conditionally, the foregoing provisions of this section shall apply as if the conviction were deemed to be a conviction for all purposes.
- (6) In the foregoing provisions of this section any reference to the expiry of a vehicle licence includes a reference to its surrender, and to its being treated as no longer in force for the purposes of section 8 of this Act by virtue of subsection (3)(a) of that section; and in the case of a conviction for a continuing offence, the offence shall be taken for the purposes of those provisions to have been committed on the date or latest date to which the conviction relates.
- (7) The foregoing provisions of this section shall have effect subject to the provisions (applying with the necessary modifications) of any enactment relating to the imposition of fines by magistrates' courts, other than one conferring a discretion as to their amount; and any sum payable by virtue of an order under this section shall be treated as a fine, and the order as a conviction, for the purposes of [^{F6}Part III of the ^{M2}Magistrates' Courts Act 1980] (including any enactment having effect as if contained in that Part) and of any other enactment relating to the recovery or application of sums ordered to be paid by magistrates' courts.
- (8) In its application to Scotland, this section shall have effect as if for subsections (5) and (7) there were substituted the following subsections respectively:—
- “(5) Where a person is [^{F7}convicted on indictment of, or is] charged before a court of summary jurisdiction with, an offence under section 8 of this Act, and an order is made under [^{F7}Part I or] Part II of the Criminal Procedure (Scotland) Act 1975 discharging him absolutely or placing him on probation, the foregoing provisions of this section shall apply as if [^{F7}the conviction on indictment were a conviction for all purposes, or, as the case may be,] the making of the order by the court of summary jurisdiction were a conviction.”
- “(7) The foregoing provisions of this section shall have effect subject to the provisions (applying with the necessary modifications) of any enactment relating to the imposition of fines by courts of summary jurisdiction, other than one conferring a discretion as to their amount; and any sum payable by virtue of an order under this section shall be treated as a fine, and the order as a conviction, for the purposes of any enactment relating to the recovery or application of sums ordered to be paid by courts of summary jurisdiction.”

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[^{F8}(9) In its application to Northern Ireland, this section shall have effect as if for subsection (7) there were substituted the following subsection—

“(7) A sum payable by virtue of any order made under this section by a court shall be recoverable as a sum adjudged to be paid by a conviction and treated for all purposes as a fine within the meaning of section 20 of the Administration of Justice Act (Northern Ireland) 1954.””]

Extent Information

E1 This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only.

Textual Amendments

- F1** S. 9(3)(b)(c) repealed by Finance Act 1987 (c. 16, SIF 107:2), ss. 2, 72, Sch. 1 Pt. III para. 8, **Sch. 16 Pt. I** Note 2
- F2** S. 9(3A) inserted by Finance Act 1989 (c. 26, SIF 107:2), s. 14(3)(7)
- F3** Words in s. 9(5) substituted (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11**, para. 9; S.I. 1992/333, art. 2(2), **Sch.2**
- F4** Words in s. 9(5) inserted (1.10.1991) by Finance Act 1991 (c. 31, SIF 107:2), s. 10(2)(a), **Sch. 3**, Pt. I, para. 6(1); S.I. 1991/2021, **art. 2**
- F5** Words in s. 9(5) repealed (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, Sch. 11, para. 9, **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch.2**
- F6** Words substituted by virtue of Magistrates' Courts Act 1980 (c. 43), **Sch. 8 para. 5**
- F7** Words (as applied to Scotland) repealed (S.) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36:1), s. 59(2), **Sch. 4**
- F8** S. 9(9) inserted (1.10.1991) by Finance Act 1991 (c. 31, SIF 107:2), s. 10(2)(a), **Sch. 3**, Pt. I, para. 6(2); S.I. 1991/2021, **art. 2**

Marginal Citations

- M1** 1973 c. 62.
- M2** 1980 c. 43.

10 Continuous liability for duty.

- (1) Subject to the provisions of this section and of section 11 of this Act, a person who for any period keeps a vehicle in respect of which duty under this Act has at any time become chargeable shall, whether or not it is still a mechanically propelled vehicle, be liable to pay duty under this Act in respect of the vehicle for that period.
- (2) Subject as aforesaid, a person shall not be liable by virtue of subsection (1) above to pay duty under this Act in respect of a vehicle—
- for any period for which duty under this Act in respect of the vehicle has been paid and has not been repaid in consequence of the surrender of a licence;
 - for any period in respect of which he has, in accordance with regulations under section 11 of this Act, given notice to the Secretary of State that the vehicle will not be used or kept on a public road;
 - for any period when the vehicle is not a mechanically propelled vehicle and a notice stating that it has ceased to be such a vehicle has, in accordance with regulations under section 11 of this Act, been given to the Secretary of State and not revoked in pursuance of subsection (2) of that section;

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- (d) for any period when the vehicle is exempt from duty by virtue of section 4 or 6 or section 7 (except subsection (3)) of this Act;
 - (e) for any period when he keeps the vehicle solely for the purpose of selling or supplying it in the course of his business as a motor dealer or using it under the authority of a trade licence in the course of his business as a motor trader within the meaning of section 16 of this Act;
 - (f)^{F9}
 - (g) for any period by reference to which there was calculated an amount ordered to be paid by him in respect of the vehicle in pursuance of section 9(1) of this Act.
- (3) A person shall not by virtue of subsection (2)(b) above be exempt from his liability for any period under subsection (1) above in respect of a vehicle if—
- (a) at any time during that period he or any other person with his consent uses or keeps the vehicle on a public road and no vehicle licence is in force for the vehicle at that time; or
 - (b) after he has given notice under the said subsection (2)(b) in relation to the vehicle in respect of that period he applies for a vehicle licence for the vehicle to have effect on any day included in the first thirty days of that period;
- and for the purposes of paragraph (a) above the consent there mentioned shall be presumed to have been given unless the contrary is shown, but any use or keeping of the vehicle in question as respects which the vehicle is exempt by virtue of any enactment for the time being in force from duty under this Act shall be disregarded.
- (4) Sums payable in pursuance of this section by way of duty in respect of a vehicle shall accrue due from day to day at one three-hundred-and-sixty-fifth of the annual rate of duty applicable to the vehicle on that day.
- (5) Without prejudice to any other mode of recovering sums payable by virtue of this section, where an application for a vehicle licence for twelve months or four months for a vehicle is made by a person by whom such sums are payable in respect of the vehicle and a vehicle licence other than a temporary licence is to be issued in pursuance of the application, the licence shall, if the Secretary of State so directs but subject to subsection (6) below, be made to have effect for a shorter period specified in the direction, being a period which is not less than thirty days and is such that the difference between the amount tendered in connection with the application and the amount chargeable upon the licence for the specified period does not exceed the aggregate amount of the sums aforesaid; and the amount so chargeable shall be equal to the number of days in the specified period multiplied by—
- (a) where the application is for a licence for twelve months, one three-hundred-and-sixty-fifth of the annual rate of duty under this Act payable in respect of the vehicle on the date of the application; and
 - (b) where the application is for a licence for four months, eleven three-thousand-six-hundred-and-fiftieths of that rate;
- and where a licence is made to have effect for a specified period in pursuance of this subsection the aggregate amount of the sums aforesaid shall be treated as reduced by the difference aforesaid.
- (6) A person to whom a licence is issued for a period specified in a direction under subsection (5) above may appeal to the county court, or in Scotland by way of summary application to the sheriff, on the ground that the Secretary of State was not authorised by that subsection to give the direction.

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Textual Amendments

F9 S. 10(2)(f) repealed by Finance Act 1988 (c. 39, SIF 107:2), s. 148, Sch. 14 Pt. II

11 Provisions supplementary to s. 10.

- (1) For the purposes of section 10 of this Act a vehicle in respect of which a vehicle licence has been issued and sums are payable by virtue of that section for any period shall, except so far as it is shown to have been a mechanically propelled vehicle of some other description during that period, be deemed to have belonged throughout that period to the description to which it belonged on the date when the last such licence was issued in respect of it.
- (2) When a vehicle in respect of which a notice has been given in pursuance of subsection (2)(c) of section 10 of this Act becomes a mechanically propelled vehicle, its keeper for the time being shall forthwith give to the Secretary of State a further notice revoking the first-mentioned notice; and where a person required to give such a further notice does not do so, then—
 - (a) if he knowingly fails to give it he shall be liable on summary conviction to a fine not exceeding [^{F10}level three on the standard scale]; and
 - (b) in a case where he became the keeper of the vehicle after the first-mentioned notice was given it shall be deemed to have been revoked on the date when he became the keeper of the vehicle, and in any other case the first-mentioned notice shall be deemed not to have been given.
- (3) The Secretary of State may by regulations make such provision as he considers appropriate for the purposes of section 10(2)(b) or (c) of this Act or subsection (2) above including, without prejudice to the generality of the power conferred by this subsection, provision—
 - (a) as to the form of and particulars to be included in a notice under those provisions, the manner of giving such a notice and the time at which it is to be treated as being given;
 - (b) for securing that notice under the said paragraph (b) is not given in respect of a period of less than thirty days or more than twelve months;
 - (c) as to the mode of calculating the period in respect of which notice under the said paragraph (b) is to be treated as given;
 - (d) with respect to the mode of proving the giving of notice;
 - (e) for deeming notice to have been given in relation to a vehicle in respect of any period or at any time if in the circumstances of any particular case the Secretary of State considers it reasonable to do so.

Textual Amendments

F10 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G

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