



# Transport Act 1982

## 1982 CHAPTER 49

### PART III

#### FIXED PENALTIES

##### *Fixed penalty offences and fixed penalty notices*

#### **27 Fixed penalty offences and fixed penalty notices**

- (1) Subject to subsection (3) below, where a constable in uniform finds a person on any occasion and has reason to believe that on that occasion he is committing or has committed a fixed penalty offence, he may give him a fixed penalty notice in respect of the offence.
- (2) Subject to subsection (4) below, 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 been committed in respect of it on that occasion, he may affix a fixed penalty notice in respect of the offence to that vehicle.
- (3) A constable may not give a fixed penalty notice to any person under subsection (1) above in respect of an offence which appears to the constable to be an offence involving obligatory endorsement unless—
  - (a) he produces his driving licence for inspection by the constable; and
  - (b) the constable is satisfied, on inspecting the licence, that he would not be liable to be disqualified under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more) if he were convicted of that offence; and
  - (c) he surrenders his driving licence to the constable to be retained and dealt with in accordance with this Part of this Act.
- (4) A constable may not affix a fixed penalty notice to a vehicle under subsection (2) above in any case where the offence in question appears to the constable to be an offence involving obligatory endorsement.

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- (5) Subject to subsection (6) below and any limitation or exception mentioned in the entry relating to any enactment in column 2 of Schedule 1 to this Act, any offence in respect of a vehicle committed or punishable under an enactment specified in column 1 of that Schedule is a fixed penalty offence for the purposes of this Part of this Act.
- (6) An offence committed under an enactment so specified is not a fixed penalty offence for those purposes if it is committed by causing or permitting a vehicle to be used by another person in contravention of any provision made or restriction or prohibition imposed by or under any enactment.
- (7) In relation to any enactment specified in column 1 of Schedule 1 to this Act
- (a) the enactment is contained in the Act referred to in the heading under which that enactment appears;
  - (b) the entry in column 2 of that Schedule broadly describes offences under that enactment, indicating any limitation or exception with respect to the offences under that enactment which are fixed penalty offences for the purposes of this Part of this Act; and
  - (c) the entry in column 3 of that Schedule indicates whether a person's driving licence is subject to endorsement on conviction of any such offence.
- (8) In this Part of this Act, " fixed penalty notice " means a notice offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty in accordance with this Part of this Act.
- (9) For the purposes of this Part of this Act an offence is an offence involving obligatory endorsement if—
- (a) it is an offence under an enactment specified in column 1 of Schedule 1 to this Act in relation to which there appears in column 3 of that Schedule the word " obligatory " or the word " obligatory " qualified by conditions relating to the offence ; and
  - (b) where the word " obligatory " is so qualified, the conditions are satisfied in the case of that offence.

## **28 Fixed penalty notices given at a police station**

- (1) In any case where—
- (a) a constable in uniform finds a person on any occasion and has reason to believe that on that occasion he is committing or has committed a fixed penalty offence ;
  - (b) the offence appears to the constable to be an offence involving obligatory endorsement; and
  - (c) the person concerned does not produce his driving licence for inspection by the constable ;

the constable may give him a notice stating that if, within five days after the notice is given, he produces the notice together with his driving licence in person to a constable at the police station specified in the notice (being a police station chosen by the person concerned) and the requirements of subsection (2)(a) and (b) below are met he will then be given a fixed penalty notice in respect of the offence.

- (2) If a person to whom a notice has been given under subsection (1) above produces the notice together with his driving licence in person to a constable at the police station

specified in the notice within five days after the notice was so given to him and the following requirements are met, that is—

- (a) the constable is satisfied, on inspecting the licence, that he would not be liable to be disqualified under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more) if he were convicted of that offence; and
- (b) he surrenders his driving licence to the constable to be retained and dealt with in accordance with this Part of this Act;

the constable shall give him a fixed penalty notice in respect of the offence to which the notice under subsection (1) above relates.

- (3) A notice under subsection (1) above shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.
- (4) This section does not apply in respect of offences committed in Scotland and a notice under this section may not specify a police station in Scotland.

## **29 Further provisions with respect to fixed penalty offences and notices**

- (1) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates until the end of the period of twenty-one days following the date of the notice or such longer period (if any) as may be specified in the notice (referred to below in this Part of this Act as the suspended enforcement period in respect of the offence).
- (2) The Secretary of State may by order provide for offences to become or (as the case may be) to cease to be fixed penalty offences for the purposes of this Part of this Act, and may make such modifications of the provisions of this Part of this Act as appear to him to be necessary for the purpose.
- (3) The fixed penalty for a fixed penalty offence shall be—
  - (a) the amount appropriate in accordance with subsection (4) below in the case of that offence ; or
  - (b) one-half of the maximum amount of the fine to which a person committing that offence would be liable on summary conviction;whichever is the less.
- (4) Subject to subsection (5) below, the amount appropriate in the case of a fixed penalty offence is—
  - (a) £20 in the case of any offence involving obligatory endorsement; and
  - (b) £10 in any other case.
- (5) The Secretary of State may by order substitute a different amount or amounts for either or both of the amounts for the time being specified in subsection (4) above.
- (6) A fixed penalty notice—
  - (a) shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence;
  - (b) shall state the period which, by virtue of subsection (1) above, is the suspended enforcement period in respect of the offence, the amount of the fixed penalty

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and the justices' clerk or, in Scotland, the clerk of court to whom and the address at which the fixed penalty may be paid; and

- (c) shall, when it is given under section 27(1) of this Act in respect of an offence committed in Scotland, be in the prescribed form.
- (7) A notice affixed to a vehicle under section 27(2) of this Act shall not be removed or interfered with except by or under the authority of the driver or person in charge of the vehicle or the person liable for the offence in question; and any person contravening this subsection shall be liable on summary conviction to a fine not exceeding £50.

### **30 Effect where fixed penalty notice is given to the alleged offender**

- (1) This section applies where a fixed penalty notice relating to an offence has been given to any person under section 27(1) or 28(2) of this Act; and references below in this section to the recipient are references to the person to whom that notice was given.
- (2) No proceedings shall be brought against the recipient for the offence to which the fixed penalty notice relates unless before the end of the suspended enforcement period he has given notice requesting a hearing in respect of that offence in the manner specified in the fixed penalty notice.
- (3) Where—
  - (a) the recipient has not given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates in the manner so specified ; and
  - (b) the fixed penalty has not been paid in accordance with this Part of this Act before the end of the suspended enforcement period;
 a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 36 of this Act for enforcement against the recipient as a fine.

### **31 Effect where fixed penalty notice is affixed to the vehicle**

- (1) This section applies where a fixed penalty notice relating to an offence has been affixed to a vehicle under section 27(2) of this Act.
- (2) Subject to subsection (3) below, where the fixed penalty has not been paid in accordance with this Part of this Act within the suspended enforcement period, a notice under this section (referred to below in this Part of this Act as a notice to owner) 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.
- (3) Subsection (2) above does not apply where before the end of the suspended enforcement period any person has given notice requesting a hearing in respect of the offence in the manner specified in the fixed penalty notice, and 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 (referred to below in this Part of this Act as the time of the alleged offence).
- (4) A notice to owner—
  - (a) shall give particulars of the alleged offence and of the fixed penalty concerned;
  - (b) shall state the period which, by virtue of subsection (9) below, is the period allowed for response to the notice ; and

- (c) shall 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 furnish 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 3 to this Act).
- (5) A person on whom a notice to owner relating to the offence is served under subsection (2) above shall not be liable in respect of the offence by virtue of this section if—
  - (a) he was not the owner of the vehicle at the time of the alleged offence; and
  - (b) he furnishes a statutory statement of ownership to that effect in response to the notice before the end of the period mentioned in subsection (4) above.
- (6) Except as provided by subsection (5) above, and subject to section 32 of this Act, where—
  - (a) a notice to owner relating to the offence has been served on any person under subsection (2) above before the end of the period of six months beginning with the day on which the fixed penalty notice was affixed to the vehicle; and
  - (b) the fixed penalty has not been paid in accordance with this Part of this Act before the end of the period allowed under this section for response to the notice to owner;proceedings may be brought in respect of the offence against the person on whom the notice to owner was served.
- (7) Subject to subsection (8) below—
  - (a) for the purposes of the institution of proceedings by virtue of subsection (6) 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.
- (8) That presumption shall not apply in any proceedings brought against any person by virtue of subsection (6) 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.
- (9) 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.

## **32 Punishment without prosecution in cases within section 31**

- (1) Proceedings in respect of an offence to which a notice to owner relates shall not be brought against the person on whom the notice to owner was served unless he has given notice requesting a hearing in respect of that offence in the manner indicated by the notice to owner before the end of the period allowed under section 31 of this Act for response to the notice to owner.
- (2) Subject to subsection (5)(b) below, where apart from this section proceedings in respect of an offence to which a notice to owner relates would lie by virtue of

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section 31(6) of this Act against the person on whom that notice was served, a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 36 of this Act for enforcement against that person as a fine.

- (3) A notice to owner relating to any offence shall indicate that the person on whom it is served may, before the end of the period allowed under section 31 of this Act 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 he was not the driver of the vehicle at the time of the alleged offence and a person purporting to be the driver wishes to give notice requesting a hearing in respect of the offence, furnish together with a statutory statement of ownership furnished as requested in that notice a statutory statement of facts (as defined by Part II of Schedule 3 to this Act) which has effect by virtue of that Schedule as a notice requesting a hearing in respect of the offence given by the driver.
- (4) In any case where a notice to owner relating to an offence may be served under section 31 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 identified as the driver of the vehicle at the time of the alleged offence in a statutory statement of facts furnished in pursuance of subsection (3)(b) above by a person on whom such a notice has been served.
- (5) In any case where a person on whom a notice to owner relating to any offence has been served furnishes a statutory statement of facts in pursuance of subsection (3) (b) above—
  - (a) any notice requesting a hearing in respect of the offence he purports to give on his own account shall be of no effect; and
  - (b) the sum mentioned in subsection (2) above may not be registered for enforcement against him as a fine unless no summons or, in Scotland, complaint in respect of the offence in question is served on the person identified in that statement as the driver within the period of two months immediately following the period allowed under section 31 of this Act for response to the notice to owner.
- (6) Once any sum determined by reference to the fixed penalty for an offence has been registered by virtue of this section under section 36 of this Act 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.

### **33 Payment of fixed penalties, effect of payment and supplementary provisions**

- (1) Payment of a fixed penalty under this Part of this Act shall be made to such justices' clerk or, in Scotland, clerk of court as may be specified in the fixed penalty notice relating to that penalty and, in England and Wales, sums paid by way of fixed penalty for an offence shall be treated for the purposes of section 61 of the Justices of the Peace Act 1979 (application of fines and fees) as if they were fines imposed on summary conviction for that offence.
- (2) References below in this Part of this Act, in relation to any fixed penalty or fixed penalty notice, to the fixed penalty clerk are references to the clerk specified in accordance with subsection (1) above in the fixed penalty notice relating to that penalty or (as the case may be) in that fixed penalty notice.

- (3) Without prejudice to payment by any other method, payment of a fixed penalty under this Part of this Act may be made by properly addressing, pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) and, unless the contrary is proved, shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post. A letter is properly addressed for the purposes of this subsection if it is addressed to the fixed penalty clerk at the address specified in the fixed penalty notice relating to the fixed penalty as the address at which the fixed penalty may be paid.
- (4) In any proceedings a certificate—
- (a) that payment of a fixed penalty was or was not received, by a date specified in the certificate, by the fixed penalty clerk; or
  - (b) that a letter containing an amount sent by post in payment of a fixed penalty was marked as posted on a date so specified;
- shall, if the certificate purports to be signed by the fixed penalty clerk, be evidence (and, in Scotland, sufficient evidence) of the facts stated.
- (5) Proceedings may not be brought against any person in respect of an offence to which a fixed penalty notice relates if the fixed penalty is paid in accordance with this Part of this Act before the end of the suspended enforcement period.
- (6) 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 furnished 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 that notice to owner under section 31 of this Act.
- (7) Where, in England and Wales, a justices' clerk for a petty sessions area comprised in the area of one responsible authority (within the meaning of section 59 of the Justices of the Peace Act 1979) discharges functions in connection with a fixed penalty for an offence alleged to have been committed in a petty sessions area comprised in the area of another such authority—
- (a) that other authority shall make to the first-mentioned authority such payment in connection with the discharge of those functions as may be agreed between them or, in default of such agreement, as may be determined by the Secretary of State ; and
  - (b) any such payment between responsible authorities shall be taken into account in determining for the purposes of subsection (4) of section 59 of that Act the net cost to those authorities respectively of the functions referred to in subsection (1) of that section.
- (8) Subsection (7) above does not apply to functions discharged in connection with a fixed penalty on or after the registration of a sum determined by reference to the penalty under section 36 of this Act.

### **34 Endorsement of licences without hearings**

- (1) Subject to subsection (2) below, where a person (" the licence holder ") has surrendered his driving licence to a constable on the occasion when he was given a fixed penalty notice under section 27(1) or 28(2) of this Act, his licence may be endorsed in accordance with this section without any order of a court.

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- (2) A person's licence may not be endorsed under this section if before the end of the suspended enforcement period he gives notice requesting a hearing in respect of the offence to which the fixed penalty notice relates in the manner specified in the fixed penalty notice, unless proceedings against him in respect of the offence are nevertheless excluded by section 33(5) of this Act by payment of the fixed penalty before the end of that period.
- (3) A licence surrendered in accordance with section 27 or 28 of this Act shall be sent to the fixed penalty clerk.
- (4) Where the fixed penalty is paid before the end of the suspended enforcement period, the fixed penalty clerk shall thereupon endorse the relevant particulars on the licence and return it to the licence holder.
- (5) Where any sum determined by reference to the fixed penalty is registered under section 36 of this Act for enforcement against the licence holder as a fine, the fixed penalty clerk shall endorse the relevant particulars on the licence and return it to the licence holder—
- (a) if he is himself the clerk who registers that sum, on registration of that sum ; and
  - (b) in any other case, on being notified of the registration by the clerk who registers that sum.
- (6) References above in this section to the relevant particulars are references to—
- (a) particulars of the offence, including the date when it was committed; and
  - (b) the number of penalty points shown in respect of the offence in Schedule 7 to the Transport Act 1981 (points to be taken into account in determining disqualification for repeated offences).
- (7) On the endorsement of a person's licence under this section he shall be treated for the purposes of—
- (a) the provisions of section 101(1) of the 1972 Act (power of court to order endorsement) with respect to evidence of any conviction ordered to be endorsed under that section;
  - (b) subsections (5) to (8) of that section (effect and removal of endorsement);
  - (c) section 182(2A) of that Act (admissibility in evidence of records maintained by the Secretary of State);
  - (d) section 19 of the Transport Act 1981 (disqualification for repeated offences); and
  - (e) the Rehabilitation of Offenders Act 1974 ;
- as if he had been convicted of the offence and the endorsement had been made in pursuance of an order made on his conviction by a court under section 101(1) of the 1972 Act, and as if the particulars of the offence endorsed by virtue of subsection (6) (a) above were particulars of his conviction of that offence.
- (8) In relation to any endorsement of a person's licence under this section—
- (a) the reference in section 101(6) of the 1972 Act to the order for endorsement; and
  - (b) the references in section 182(2A) of that Act to any order made on a person's conviction;
- shall be read as references to the endorsement itself.



(9) Where

- (a) in endorsing any person's licence under this section the fixed penalty clerk is deceived as to whether endorsement under this section is excluded by section 41(2) of this Act by virtue of the fact that the licence holder would be liable to be disqualified under section 19(2) of the Transport Act 1981 if he were convicted of the offence; and
- (b) the deception constituted or was due to an offence committed by the licence holder ;

then, if he is convicted of that offence, the court by or before which he is convicted shall have the same powers and duties as it would have had if it had convicted him of the offence of which particulars were endorsed under this section.

- (10) On endorsing a person's licence under this section the fixed penalty clerk shall send notice of the endorsement and of the particulars endorsed to the Secretary of State.

### **35 Licence receipts**

- (1) Where a person surrenders his driving licence to a constable on receiving a fixed penalty notice given to him under section 27(1) or 28(2) of this Act, the constable shall issue a receipt for the licence under this section.
- (2) In any case within subsection (1) above the fixed penalty clerk may issue a new receipt for the licence on the application of the licence holder.
- (3) A receipt issued under this section shall cease to have effect—
  - (a) if issued by a constable, on the expiration of the period of one month beginning with the date of issue or such longer period as may be prescribed ; and
  - (b) if issued by the fixed penalty clerk, on such date as he may specify in the receipt;or, if earlier, on the return of the licence to the licence holder.
- (4) A person shall not be guilty of an offence under section 101(4) of the 1972 Act by virtue of not having posted his licence or caused it to be delivered as mentioned in that subsection or by virtue of not producing it to the court for endorsement if—
  - (a) he has instead posted or caused to be delivered as so mentioned a current receipt for the licence issued under this section or surrenders any such receipt to the court at the hearing; and
  - (b) he produces the licence to the court immediately on its return.
- (5) A person shall not be guilty of an offence under section 103(2) of that Act by virtue of not producing his licence to the court as required under that subsection if instead—
  - (a) he surrenders to the court a current receipt for the licence issued under this section ; and
  - (b) he produces the licence to the court immediately on its return.
- (6) A person shall not be guilty of an offence under section 161(4) of that Act by virtue of not producing his licence on being required to do so by a constable under any provision of that section if either—
  - (a) on the occasion when the production of his licence is so required he produces a current receipt for the licence issued under this section ; or

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- (b) within five days after the production of his licence was so required he produces any such receipt in person at such police station as may have been specified by him on that occasion ;

and in either case, if required to do so, he produces the licence in person, immediately on its return, at such police station as may have been so specified.

- (7) Where a person is not in possession of his driving licence in consequence of the fact that he has surrendered the licence as mentioned in subsection (1) above, he shall not be taken to be in breach of any duty under section 87 or 89 of that Act (revocation on disability and in certain other circumstances) to deliver his licence forthwith to the Secretary of State if he delivers his licence to the Secretary of State immediately on its return.

### **36 Registration of sums payable in default for enforcement as fines**

- (1) The following provisions of this section apply where by virtue of section 30(3) or 32(2) of this Act a sum determined by reference to the fixed penalty for any offence (referred to below in this section as a sum payable in default) may be registered under this section for enforcement against any person (referred to below in this section as the defaulter) as a fine.
- (2) Subject to subsection (3) below, the chief officer of police may issue a certificate in respect of any sum payable in default stating that the sum is registrable under this section for enforcement against the defaulter as a fine (referred to below in this section as a registration certificate).
- (3) Subsection (2) above shall not apply where the fixed penalty notice in question was given to the defaulter under section 27(1) of this Act in respect of an offence committed in Scotland; but in any such case the fixed penalty clerk—
  - (a) if the defaulter appears to him to reside within the jurisdiction of the court of summary jurisdiction of which he is himself the clerk, shall register the sum payable in default for enforcement as a fine by that court;
  - (b) in any other case, shall issue a registration certificate in respect of that sum.
- (4) Where the chief officer of police or the fixed penalty clerk issues a registration certificate under this section, he shall cause it to be sent—
  - (a) if the defaulter appears to him to reside in England and Wales, to the clerk to the justices for the petty sessions area in which the defaulter appears to him to reside; and
  - (b) if the defaulter appears to him to reside in Scotland, to the clerk of a court of summary jurisdiction for the area in which the defaulter appears to him to reside.
- (5) A registration certificate issued under this section in respect of any sum payable in default shall—
  - (a) give particulars of the offence to which the fixed penalty notice relates;
  - (b) indicate whether registration is authorised under section 30(3) or 32(2) of this Act; and
  - (c) state the name and last known address of the defaulter and the amount of the sum payable in default.
- (6) Subject to subsection (7) below—

- (a) where the clerk to the justices for a petty sessions area receives a registration certificate issued under this section in respect of any sum payable in default, he shall register that sum for enforcement as a fine in that area by entering it in the register of a magistrates' court acting for that area ;
  - (b) where the clerk of a court of summary jurisdiction receives a registration certificate so issued, he shall register the sum payable in default for enforcement as a fine by that court.
- (7) The clerk receiving a registration certificate so issued shall not be required by subsection (6) above to register the sum payable in default if it appears to him that the defaulter does not reside in the petty sessions area or (as the case may be) within the jurisdiction of the court of summary jurisdiction in question ; but in any such case he shall cause the certificate to be sent—
- (a) if the defaulter appears to him to reside in England and Wales, to the clerk to the justices for the petty sessions area in which the defaulter appears to him to reside; and
  - (b) if the defaulter appears to him to reside in Scotland, to the clerk of a court of summary jurisdiction for the area in which the defaulter appears to him to reside ;
- and that subsection shall apply accordingly on receipt by that clerk of the certificate as it applies on receipt by the clerk to whom it was originally sent.
- (8) Where the clerk to the justices for a petty sessions area or the clerk of a court of summary jurisdiction registers any sum under this section for enforcement as a fine, he shall thereupon give notice of registration to the defaulter, specifying the amount of that sum and giving the information with respect to the offence and the authority for registration included in the registration certificate by virtue of subsection (5) (a) and (b) above or (in a case within subsection (3) (a) above) the corresponding information.
- (9) For the purposes of this section, where the defaulter is a body corporate, the place where that body resides and the address of that body shall be either of the following—
- (a) the registered or principal office of that body ; and
  - (b) the address which, with respect to the vehicle concerned, is the address recorded in the record kept under the Vehicles (Excise) Act 1971 as being that body's address.
- (10) On the registration of any sum in a magistrates' court or a court of summary jurisdiction by virtue of this section any enactment referring (in whatever terms) to a fine imposed or other sum adjudged to be paid on the conviction of such a court shall have effect in the case in question as if the sum so registered were a fine imposed by that court on the conviction of the defaulter on the date of the registration.
- (11) Accordingly, in the application by virtue of this section of the provisions of the Magistrates' Courts Act 1980 relating to the satisfaction and enforcement of sums adjudged to be paid on the conviction of a magistrates' court, section 85 of that Act (power to remit a fine in whole or in part) is not excluded by subsection (2) of that section (references in that section to a fine not to include any other sum adjudged to be paid on a conviction) from applying to a sum registered in a magistrates' court by virtue of this section.

### **37 Registration and endorsement invalid in certain circumstances**

- (1) This section applies where—

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- (a) a person who has received notice of the registration of a sum under section 36 of this Act for enforcement against him as a fine makes a statutory declaration to the effect mentioned in subsection (2) or (3) below (as the case may require); and
  - (b) that declaration is served within twenty-one days of the date on which the person making it received notice of the registration on the clerk of the relevant court.
- (2) In a case where the registration was made by virtue of section 30(3) of this Act, the statutory declaration must state either—
- (a) that the person making the declaration was not the person to whom the relevant fixed penalty notice was given; or
  - (b) that he gave notice requesting a hearing in respect of the alleged offence as permitted by the fixed penalty notice before the end of the suspended enforcement period.
- (3) In a case where the registration was made by virtue of section 32(2) of this Act, the statutory declaration must state either—
- (a) that the person making the declaration did not know of the fixed penalty concerned or of any fixed penalty notice or notice to owner relating to that penalty until he received notice of the registration ; or
  - (b) that he was not the owner of the vehicle at the time of the alleged offence of which particulars are given in the relevant notice to owner and that he has a reasonable excuse for failing to comply with that notice; or
  - (c) that he gave notice requesting a hearing in respect of that offence as permitted by the relevant notice to owner before the end of the period allowed under section 31 of this Act for response to that notice.
- (4) In any case within subsection (2)(a) above the relevant fixed penalty notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void.
- (5) Where in any such case the person to whom the relevant fixed penalty notice was given surrendered a driving licence held by the person making the declaration, any endorsement of that licence made under section 34 of this Act in respect of the offence in respect of which that notice was given shall be void.
- (6) In any case within subsection (2)(b) above—
- (a) the registration, any proceedings taken before the declaration was served for enforcing payment of the sum registered, and any endorsement, in respect of the offence in respect of which the relevant fixed penalty notice was given, made under section 34 of this Act before the declaration was served, shall be void ; and
  - (b) the case shall be treated after the declaration is served as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.
- (7) In any case within subsection (3)(a) or (b) above, the relevant notice to owner, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void, but without prejudice, in a case within paragraph (a) of that subsection, to the service of a further notice to owner under section 31 of this Act on the person making the declaration.

This subsection applies whether or not the relevant notice to owner was duly served in accordance with that section on the person making the declaration.

- (8) In any case within subsection (3)(c) above, no proceedings for enforcing payment of the sum registered shall be taken after the statutory declaration is served until the end of the period of twenty-one days following the date of that declaration; and where before the end of that period a notice is served by or on behalf of the chief officer of police on the person making the declaration asking him to furnish a new statutory statement of ownership to that chief officer of police before the end of the period of twenty-one days from the date on which the notice is served, no such proceedings shall be taken until the end of the period allowed for response to that notice.
- (9) Where in any case within subsection (3)(c) above—
- (a) no notice is served by or on behalf of the chief officer of police in accordance with subsection (8) above ; or
  - (b) such a notice is so served and the person making the declaration furnishes a new statutory statement of ownership in accordance with the notice ;
- the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void, and the case shall be treated after the time mentioned in subsection (10) below as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.
- (10) The time referred to in subsection (9) above is—
- (a) in a case within paragraph (a) of that subsection, the end of the period of twenty-one days following the date of the statutory declaration ;
  - (b) in a case within paragraph (b) of that subsection, the time when the statement is furnished.

### **38 Provisions supplementary to section 37**

- (1) It shall be the duty of the clerk of the relevant court to cancel an endorsement of a licence under section 34 of this Act that is void by virtue of section 37(5) or (6)(a) of this Act on production of the licence to him for that purpose, and to send notice of the cancellation to the Secretary of State.
- (2) In any case where notice is served by or on behalf of the chief officer of police in accordance with section 37(8), the chief officer of police shall cause the clerk of the relevant court to be notified of that fact immediately on service of the notice.
- (3) In any case within section 37(2)(b) or (3), section 127(1) of the Magistrates' Courts Act 1980 (1imitation of time) and section 331(1) of the Criminal Procedure (Scotland) Act 1975 (statutory offences time limit) shall have effect as if for the reference to the time when the offence was committed or (as the case may be) the time when the contravention occurred there were substituted a reference to the date of the statutory declaration made for the purposes of section 37(1).
- (4) For the purposes of section 37(1) a statutory declaration shall be taken to be duly served on the clerk of the relevant court if it is delivered to him, left at his office, or sent in a registered letter or by the recorded delivery service addressed to him at his office.
- (5) If on the application of a person who has received notice as mentioned in section 37(1)
- (a) it appears to the relevant court (which for this purpose may be composed of a single

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justice) that it was not reasonable to expect him to serve a statutory declaration to the effect there mentioned within the period allowed by that subsection, the court may accept service of such a declaration by that person after that period has expired; and a statutory declaration accepted under this subsection shall be taken to have been served as required by that subsection.

- (6) References in section 37 to the relevant fixed penalty notice or the relevant notice to owner are references to the fixed penalty notice or notice to owner relating to the fixed penalty concerned.
- (7) In section 37 and this section—
- (a) references to the relevant court are references—
    - (i) in the case of a sum registered under section 36 of this Act for enforcement as a fine in a petty sessions area in England and Wales, to any magistrates' court acting for that area ; and
    - (ii) in the case of a sum registered under that section for enforcement as a fine by a court of summary jurisdiction in Scotland, to that court;
  - (b) references to the clerk of the relevant court, where that court is a magistrates' court, are references to a clerk to the justices for the petty sessions area for which that court is acting; and
  - (c) references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum;

and for the purposes of that section and this section a person shall be taken as receiving notice of the registration of a sum under section 36 of this Act for enforcement against him as a fine when he receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.

- (8) Nothing in the provisions of section 37 or this section shall be read as prejudicing any rights a person may have apart from those provisions by virtue of the invalidity of any action purportedly taken in pursuance of this Part of this Act which is not in fact authorised by this Part of this Act in the circumstances of the case (and accordingly references in those provisions to the registration of any sum or to any other action taken under or by virtue of any provision of this Part of this Act shall not be read as implying that the registration or action was validly made or taken in accordance with that provision).

### **39 Notification of court and date of trial**

- (1) On an occasion when a person is given a fixed penalty notice under section 27(1) or 28(2) of this Act in respect of an offence, he may be given written notification specifying the magistrates' court by which and the date on which the offence will be tried if that person gives notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice.
- (2) Subject to subsections (4) and (5) below, where—
- (a) a person has been notified in accordance with this section of the court and date of trial of an offence in respect of which he has been given a fixed penalty notice; and
  - (b) that person has given notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice;

the provisions of the Magistrates' Courts Act 1980 shall apply as mentioned in subsection (3) below.

- (3) Those provisions shall have effect for the purpose of any proceedings in respect of that offence as if—
  - (a) the allegation in the fixed penalty notice with respect to that offence were an information duly laid in accordance with section 1 of that Act; and
  - (b) the notification of court and date of trial were a summons duly issued on that information by a justice of the peace for the area for which the magistrates' court notified as the court of trial acts, requiring the person notified to appear before that court to answer to that information and duly served on him on the date on which the notification was given.
- (4) If, in a case within subsection (2) above, notice is served by or on behalf of the chief officer of police on the person who gave notice requesting a hearing stating that no proceedings are to be brought in respect of the offence concerned, that subsection shall not apply and no such proceedings may be brought against the person who gave notice requesting a hearing.
- (5) Section 14 of that Act (proceedings invalid where accused did not know of them) is not applied by subsection (2) above in a case where a person has been notified in accordance with this section of the court and date of trial of an offence.
- (6) This section does not apply to Scotland.

#### **40 Court procedure in fixed penalty cases in Scotland**

- (1) Where, in relation to an offence committed in Scotland, a person is given a fixed penalty notice under section 27(1) of this Act in respect of an offence he may be given written notification specifying the court at which and the date on which the case will first call if that person gives notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice; and such written notification may be either—
  - (a) included in the fixed penalty notice ; or
  - (b) given to the person in question at the time when he is given the fixed penalty notice.
- (2) Where—
  - (a) a person has been notified in accordance with this section of the court and date of first calling of a case concerning an offence in respect of which he has been given a fixed penalty notice ; and
  - (b) that person has given notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice;the following provisions of this section shall apply for the purpose of any proceedings in respect of the offence.
- (3) The notification of the court and date of first calling shall have effect as if it were a citation to an accused person by virtue of section 315 of the Criminal Procedure (Scotland) Act 1975 notwithstanding that such notification may not be in the form referred to in subsection (2) of that section.
- (4) A copy of the fixed penalty notice given under section 27(1) of this Act shall have effect as if it were a complaint under Part II of the said Act of 1975, and the provisions of that Part of that Act shall accordingly apply—

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- (a) to the copy fixed penalty notice as if it were a complaint ; and
  - (b) to the fixed penalty notice as if it were a copy complaint served on the accused under that Part of that Act.
- (5) For the purposes of subsection (4) above—
- (a) it shall not be necessary for the fixed penalty notice to be signed by the prosecutor or by a solicitor on behalf of a prosecutor other than the public prosecutor of a court;
  - (b) a copy fixed penalty notice having effect as if it were a complaint shall not be held to be irrelevant by reason only—
    - (i) that the charge in the fixed penalty notice is not in the form referred to in section 312 of the said Act of 1975; or
    - (ii) that no further specification is given than the specification required for a fixed penalty notice by section 29 (6) (a) of this Act;
 and without prejudice to the generality of subsection (4) above, paragraphs (a) to (z) of the said section 312 shall apply in respect of the charge referred to in sub-paragraph (i) above; and
  - (c) section 311(5) of the said Act of 1975 shall not apply in respect of a copy fixed penalty notice having effect as if it were a complaint, but there shall be given to the alleged offender along with the fixed penalty notice a notice stating the penalties to which he would be liable in the event of his conviction for the offence.

**41 Provision for exclusion of fixed penalty procedures where fixed penalty notice mistakenly given**

- (1) This section applies where on inspection of any driving licence sent to him under section 34(3) of this Act after being surrendered by the licence holder on the occasion when he was given a fixed penalty notice in respect of an offence under section 27(1) or 28(2) of this Act it appears to the fixed penalty clerk that the licence holder would be liable to be disqualified under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more) if he were convicted of that offence.
- (2) The fixed penalty clerk may not endorse the licence under section 34 of this Act, but shall instead send it to the chief officer of police.
- (3) Nothing in this Part of this Act shall prevent proceedings being brought in respect of the offence for which the fixed penalty notice was given, provided that those proceedings are commenced before the end of the period of six months beginning with the date on which that notice was given.
- (4) If proceedings in respect of that offence are commenced before the end of that period, the case shall thereupon be treated in all respects as if no fixed penalty notice had been given in respect of the offence; and accordingly, any action taken in pursuance of any provision of this Part of this Act by reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision, the registration under section 36 of this Act of any sum determined by reference to the fixed penalty for that offence for enforcement against the licence holder as a fine and any proceedings for enforcing payment of any such sum within the meaning of section 38 of this Act).



*Conditional offer of fixed penalty by procurator fiscal*

**42 Fixed penalties offered by procurator fiscal**

- (1) Where a procurator fiscal receives a report that there has been committed—
- (a) a fixed penalty offence ; or
  - (b) an offence mentioned in Schedule 2 to this Act;
- and, in the former case, no fixed penalty notice has been given or affixed in accordance with section 27 of this Act, he may send to the alleged offender a notice under this section (referred to in this section as a conditional offer); and where he issues a conditional offer the procurator fiscal shall notify the clerk of court specified in it of the issue of the conditional offer and of its terms.
- (2) A conditional offer—
- (a) shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence;
  - (b) shall state the amount of the fixed penalty for that offence ;
  - (c) shall indicate that if, within twenty-eight days of the date on which the conditional offer was issued, or such longer period as may be specified in the conditional offer, the alleged offender—
    - (i) tenders payment of the fixed penalty to the clerk of court specified in the conditional offer at the address therein mentioned ; and
    - (ii) in the case of an offence involving obligatory endorsement, at the same time, delivers his driving licence to that clerk of court;then, if the alleged offender is not liable to disqualification under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more), and where the clerk of court accepts payment of the fixed penalty, any liability to conviction of the offence referred to in subsection (1) above shall be discharged ; and
  - (d) shall state that proceedings against the alleged offender shall not be commenced in respect of that offence until the end of a period of twenty-eight days from the date on which the conditional offer was issued, or such longer period as may be specified in the conditional offer.
- (3) References in the provisions of this Part of this Act (other than section 27 and subsection (1) above) to a fixed penalty offence include references to any offence mentioned in Schedule 2 to this Act, and references in those provisions and in subsection (2) above to an offence involving obligatory endorsement include references to an offence mentioned in the Note to that Schedule.
- (4) Where, in relation to an offence referred to in subsection (1) above, the alleged offender has delivered his driving licence to the clerk of court and tendered payment in accordance with subsection (2)(c) above, if it appears to the clerk of court, on inspecting the licence, that the alleged offender would be liable to disqualification under section 19(2) of the Transport Act 1981 (disqualification where penalty points number twelve or more) if he were convicted of that offence, the clerk of court—
- (a) shall not accept payment of the fixed penalty;
  - (b) shall return the driving licence to the alleged offender together with the payment tendered in respect of the fixed penalty; and

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- (c) shall notify the procurator fiscal who issued the conditional offer that he has complied with paragraphs (a) and (b) above.
- (5) Where payment of the fixed penalty has not been made and, in the case of an offence involving obligatory endorsement, the driving licence has not been delivered to the clerk of court. he shall upon the expiry of the period of twenty-eight days referred to in subsection (2)(c) or such longer period as may be specified in the conditional offer, notify the procurator fiscal who issued the conditional offer that no payment has been made and, where appropriate, that no driving licence has been delivered.
- (6) Proceedings shall not be brought against any person for the offence to which a conditional offer relates until the procurator fiscal receives notification from the clerk of court in accordance with subsection (4) or (5) above.
- (7) Where an alleged offender tenders payment of the fixed penalty to the clerk of court specified in the conditional offer and such payment is accepted and, where appropriate, the driving licence is endorsed no proceedings shall be brought against the alleged offender for the offence referred to in subsection (1) above.
- (8) Subject to subsection (9) below, the following provisions of this Part of this Act, namely—  
     section 33(1); and  
     section 33(4) (a);  
 shall have effect in relation to a conditional offer and the payment of the fixed penalty following upon the offer as they have effect respectively in relation to a fixed penalty notice given under section 27(1) of this Act and the payment of the fixed penalty by virtue of that notice.
- (9) For the purposes of subsection (8) above—  
 (a) references in the provisions mentioned in that subsection to the fixed penalty clerk are references to the clerk specified in accordance with subsection (2) (c)(i) above in the conditional offer ; and  
 (b) references in section 33(1) of this Act to the fixed penalty notice shall be construed as if they were references to the conditional offer.
- (10) Notwithstanding the provisions of subsection (6) of section 27 of this Act, an offence referred to in that subsection and committed in the manner described in that subsection shall, for the purposes of this section, be a fixed penalty offence.
- (11) This section applies only in relation to offences committed in Scotland.

#### **43 Endorsement of licences without hearings where conditional offer accepted**

- (1) Where a person (" the licence holder ") has delivered his licence to the clerk of court in accordance with section 42(2) of this Act, and where section 42(4) of this Act does not apply, his licence may be endorsed in accordance with this section without any order of a court.
- (2) Where the fixed penalty is paid before the clerk of court gives notice to the procurator fiscal in terms of section 42(6) of this Act, the clerk of court shall thereupon endorse the relevant particulars on the licence and return it to the licence holder.
- (3) Subsections (6) to (10) of section 34 of this Act shall apply to endorsement under this section as they apply to endorsement under that section and for the purpose of this subsection—

- (a) references in those subsections to the fixed penalty clerk are references to the clerk of court specified in the conditional offer; and
- (b) the reference in section 34(9) of this Act to section 41(2) of this Act includes a reference to section 42(4) of this Act.

*Miscellaneous and supplemental*

**44 Treatment of other offences committed on the same occasion**

- (1) Section 19 of the Transport Act 1981 (disqualification for repeated offences) shall have effect subject to this section in any case where—
  - (a) a person is convicted of an offence involving obligatory or discretionary disqualification ; and
  - (b) the court is satisfied that his driving licence has been or is liable to be endorsed under section 34 or 43 of this Act in respect of an offence committed on the same occasion as the offence of which he is convicted (referred to below in this section as the connected offence).
- (2) The appropriate number of penalty points for the offence of which he is convicted shall be treated for the purposes of section 19 of that Act as reduced by the number of penalty points required to be endorsed on his licence under section 34 or 43 of this Act in respect of the connected offence.
- (3) References in this section, in relation to any offence, to the appropriate number of penalty points for that offence are references—
  - (a) to the number of penalty points shown in respect of that offence in Schedule 7 to that Act, where only one number is so shown ; and
  - (b) where a range of numbers is so shown, to a number falling within that range determined by the court as the appropriate number of penalty points in respect of that offence apart from the provisions of this section.
- (4) In any case within subsection (1) above—
  - (a) the reference in section 19(1)(b) of that Act to the number of penalty points shown in respect of an offence in Schedule 7 to that Act or to a number falling within a range of numbers so shown shall be read in relation to the offence mentioned in subsection (1) above as referring to the number so shown in respect of that offence or (as the case may be) to a number within the range so shown, reduced in either case in accordance with subsection (2) above ; and
  - (b) the reference in section 19(3)(a) to any penalty points that on the occasion of a person's conviction will be ordered to be endorsed on any licence held by him or would be so ordered if he were not then ordered to be disqualified shall be read as referring to any such points that will or would be so ordered after reduction in accordance with subsection (2) above of the appropriate number of penalty points for any offence of which he is then convicted.

**45 Hired vehicles**

- (1) This section applies where—
  - (a) a notice to owner has been served on a vehicle-hire firm;

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- (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 under section 31 of this Act for response to the notice the firm furnishes to the chief officer of police by or on whose behalf the notice was served 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 31 and 32 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 shall include references to a notice served under section 31 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 47 (7) (b) of or Part I of Schedule 3 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 furnished may, at any reasonable time within six months after service of the notice to owner (and on 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 31 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 furnish 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 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.

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

- (1) If, in response to a notice to owner, any person furnishes a statement which is false in a material particular and does so recklessly or knowing it to be false in that particular, he shall be liable on summary conviction to a fine not exceeding £1000.
- (2) Proceedings for an offence in England and Wales under subsection (1) above 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, but no such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.
- (3) Proceedings in Scotland for an offence under subsection (1) above shall not be commenced after the expiration of a period of three years from the commission of the offence, but subject to that limitation, any such proceedings may be commenced at any time within six months after the date on which evidence sufficient in the opinion of the procurator fiscal to justify the proceedings comes to his knowledge.
- (4) Proceedings may be commenced in accordance with subsection (3) above notwithstanding anything in section 331(1) of the Criminal Procedure (Scotland) Act 1975; and subsection (3) of that section (date of commencement of proceedings) shall apply for the purposes of this section as it applies for the purposes of that section.
- (5) For the purposes of subsections (2) and (3) above, a certificate signed by or on behalf of the prosecutor or, as the case may be, the procurator fiscal and stating the date on which such evidence as is there mentioned came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be taken to be so signed unless the contrary is proved.

#### **47 Evidence in fixed penalty notice cases**

- (1) In any proceedings a certificate that a copy of a statement by a constable with respect to the alleged offence (referred to below in this section as a constable's witness statement) was included in or given with a fixed penalty notice or a notice under section 28(1) of this Act given to the accused on a date specified in the certificate shall, if the certificate purports to be signed by the constable who gave the accused the notice, be evidence of service of a copy of that statement by delivery to the accused on that date.
- (2) In any proceedings a certificate that a copy of a constable's witness statement was included in or served with a notice to owner served on the accused in a manner and on a date specified in the certificate shall, if the certificate purports to be signed by any person employed by the police authority for the police area in which the offence to which the proceedings relate is alleged to have been committed, be evidence of service in the manner and on the date so specified both of a copy of that statement and of the notice to owner.
- (3) Any address specified in any such certificate as is mentioned in subsection (2) above as being the address at which service of the notice to owner was effected shall be taken

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for the purposes of any proceedings in which the certificate is tendered in evidence to be the accused's proper address, unless the contrary is proved.

- (4) Where a copy of a constable's witness statement is included in or served with a notice to owner served in any manner in which the notice is authorised to be served under this Part of this Act, the statement shall be treated as duly served for the purposes of section 9 of the Criminal Justice Act 1967 (proof by written statement) notwithstanding that the manner of service is not authorised by subsection (8) of that section.
- (5) In relation to any proceedings in which service of a constable's witness statement is proved by certificate under this section—
- (a) that service shall be taken for the purposes of subsection (2)(c) of that section (copy of statement to be tendered in evidence to be served before hearing on other parties to the proceedings by or on behalf of the party proposing to tender it) to have been effected by or on behalf of the prosecutor; and
  - (b) subsection (1)(d) of that section (time for objection) shall have effect with the substitution, for the reference to seven days from the service of the copy of the statement, of a reference to seven days from the relevant date.

In paragraph (b) of this subsection, " relevant date " means—

- (i) where the accused gives notice requesting a hearing in respect of the offence in accordance with any provision of this Part of this Act, the date on which he gives that notice; and
  - (ii) where a notice in respect of the offence was given to the accused under section 28(1) of this Act but no fixed penalty notice is given in respect of it, the last day for production of the first-mentioned notice at a police station in accordance with that section.
- (6) Where any person is charged with a fixed penalty offence and the prosecutor produces to the court a document to which this subsection applies purporting to have been signed by the accused, the document shall be presumed, unless the contrary is proved, to have been signed by the accused and shall be evidence (and, in Scotland, sufficient evidence) in the proceedings of any facts stated in it tending to show that the accused was the owner, the hirer or the driver of the vehicle concerned at a particular time.
- (7) Subsection (6) above applies to any document purporting to be—
- (a) a notice requesting a hearing in respect of the offence charged given in accordance with a fixed penalty notice relating to that offence ; or
  - (b) a statutory statement of any description defined in Schedule 3 to this Act or a copy of a statement of liability within the meaning of section 45 of this Act furnished in response to a notice to owner.
- (8) Subsections (1) to (5) above do not apply to Scotland.

#### **48 Jurisdiction of the district court in Scotland**

- (1) Notwithstanding anything in any enactment or rule of law to the contrary it shall be competent for a district court in Scotland to try any of the offences mentioned in Schedules 1 and 2 to this Act.
- (2) Nothing in this section shall empower the district court in respect of any offence—
- (a) to impose—
    - (i) a penalty of imprisonment which exceeds sixty days; or

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- (ii) a fine which exceeds level 4 on the standard scale; or
  - (b) subject to subsection (3) below, to impose disqualification within the meaning of the 1972 Act.
- (3) Where a person is convicted in the district court of an offence referred to in subsection (1) above, being an offence involving obligatory endorsement.—
  - (a) the court shall order that particulars of the conviction shall be endorsed on any licence held by him in accordance with section 101 of the 1972 Act; and
  - (b) if the penalty points to be taken into account under section 19(3) of the Transport Act 1981 number twelve or more, the court shall order him to be disqualified under section 19(2) of that Act.
- (4) Until the commencement of section 54 of the Criminal Justice Act 1982, for the reference to level 4 on the standard scale in subsection (2) above there shall be substituted a reference to £200.

#### **49 Supplementary provisions**

- (1) The Secretary of State may by regulations make provision as to any matter incidental to the operation of this Part of this Act, and in particular—
  - (a) for prescribing any information or further information to be provided in any notice, notification, certificate of receipt under section 27, 28, 31, 35, 36(2) or (3), 37(8), 39(1), 40(1) or 42 of this Act or in any official form for a statutory statement mentioned in Schedule 3 to, or a statement under section 45(2) of, this Act;
  - (b) for requiring any such official form to be served with any notice served under section 31 or 37(8) of this Act; and
  - (c) for prescribing the duties of justices' clerks or (as the case may be) clerks of courts of summary jurisdiction and the information to be supplied to them.
- (2) 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 31 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.
- (3) Notwithstanding the presumption in subsection (2) above, it shall be 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.
- (4) Subject to any requirement of this Part of this Act with respect to the manner in which any such document may be furnished, the following documents may be furnished by post (but without prejudice to any other method of furnishing), that is to say—
  - (a) any of the statutory statements mentioned in Schedule 3 to this Act; and
  - (b) any of the documents mentioned in section 45(2) of this Act.
- (5) Where a notice requesting a hearing in respect of an offence is permitted by a fixed penalty notice or notice to owner relating to that offence to be given by post, section 7 of the Interpretation Act 1978 (service of documents by post) shall apply as if that notice were permitted to be so given by this Act.

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

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- (6) A notice to owner may be served on any person—
- (a) by delivering it to him or by leaving it at his proper address; or
  - (b) by sending it to him by post;
- and where the person on whom such a notice is to be served is a body corporate it shall be duly served if it is served on the secretary or clerk of that body.
- (7) For the purposes of this Part of this Act and of section 7 of the Interpretation Act 1978 as it applies for the purposes of subsection (6) above the proper address of any person in relation to service on him of a notice to owner shall be—
- (a) in the case of the secretary or clerk of a body corporate, that of the registered or principal office of that body or the registered address of the person who is or was the registered keeper of the vehicle concerned at the time of service; and
  - (b) in any other case, his last known address at the time of service.
- (8) References in this section to the person who was or is the registered keeper of a vehicle at any time are references to the person in whose name the vehicle was or is at that time registered under the Vehicles (Excise) Act 1971; and, in relation to any such person, the reference in subsection (7) (a) above to that person's registered address is a reference to the address recorded in the record kept under that Act with respect to that vehicle as being that person's address.
- (9) References in this Part of this Act to statutory statements of any description are references to the statutory statements of that description defined in Schedule 3 to this Act; and that Schedule shall have effect also for the purpose of requiring certain information to be provided in official forms for the statutory statements so defined to assist persons in completing those forms and generally in determining what action to take in response to a notice to owner.
- (10) In this Part of this Act, " official form ", in relation to a statutory statement mentioned in Schedule 3 to or a statement under section 45(2) of this Act, means a document supplied by or on behalf of a chief officer of police for use in making that statement.
- (11) An order under section 81(3) of the 1967 Act may not authorise the employment of a traffic warden to discharge any function under this Part of this Act in respect of an offence if the offence appears to the traffic warden to be an offence involving obligatory endorsement.
- (12) Section 179 of the 1972 Act (restrictions on prosecutions for certain offences) shall not apply to any offence in respect of which a fixed penalty notice has been given or affixed under any provision of this Part of this Act or in respect of which a notice has been given under section 28(1) of this Act.
- (13) In any case where—
- (a) by virtue of section 31(6) of this Act proceedings may be brought in respect of an offence against a person on whom a notice to owner was served ; and
  - (b) section 38(3) 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.



## 50 Interpretation of Part III

(1) In this Part of this Act—

" chief officer of police " means, in relation to any fixed penalty notice or notice to owner, the chief officer of police for the police area in which the fixed penalty offence in question is alleged to have been committed ;

" court of summary jurisdiction " has the same meaning as in section 462(1) of the Criminal Procedure (Scotland) Act 1975 ;

" driving licence " means any licence to drive a motor vehicle granted under Part III of the 1972 Act;

" justices' clerk " means a clerk to the justices for a petty sessions area;

" magistrates' court " and " petty sessions area " have the same meanings as in the Magistrates' Courts Act 1980; and

" proceedings ", except in relation to proceedings for enforcing payment of a sum registered under section 36 of this Act, means criminal proceedings.

(2) In this Part of this Act—

(a) references to a notice requesting a hearing in respect of an offence are references to a notice indicating that the person giving the notice wishes to contest liability for the offence or seeks a determination by a court with respect to the appropriate punishment for the offence; and

(b) references to an offence include an alleged offence.

(3) In so far as an order under section 81(3) of the 1967 Act authorises the employment of traffic wardens for the purposes of this Part of this Act references in this Part of this Act to a constable or, as the case may be, to a constable in uniform shall include a traffic warden.

(4) In sections 31, 32 and 47(6) of this Act and in Schedule 3 to this Act, " driver ", in relation to an alleged fixed penalty offence, means the person by whom, assuming the offence to have been committed, it was committed.

(5) Subject to any express exception, references in this Part of this Act to this Part of this Act include Schedules 1 to 3.

(6) The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part of this Act listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provisions</i>
Fixed penalty	Section 29(3)
Fixed penalty clerk	Section 33(2)
Fixed penalty notice	Section 27(8)
Fixed penalty offence	Sections 27(5) and 42(3)
Notice to owner	Sections 31(2) and 45(4)
Offence involving obligatory endorsement	Sections 27(9) and 42(3)
Official form	Section 49(10)
Owner	Section 49(2)

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

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<i>Expression</i>	<i>Relevant provisions</i>
Statutory statement of facts	Part II of Schedule 3
Statutory statement of hiring	Part I of Schedule 3
Statutory statement of ownership	Part I of Schedule 3
Suspended enforcement period	Section 29(1)
Time of the alleged offence	Section 31(3)

## 51 **Guidance on application of Part III**

The Secretary of State shall issue guidance to chief officers of police for police areas in respect of the operation of this Part of this Act with the objective so far as possible of working towards uniformity.