



Road Traffic Offenders Act 1988

1988 CHAPTER 53

[^{F1}PART 3A

FINANCIAL PENALTY DEPOSITS

Textual Amendments

- F1** Pt. 3A (ss. 90A-90F) inserted (5.1.2009) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 11(1), 61(1)(10)** (with s. 61(3)); S.I. 2008/3164, art. 2(b)

90A Power to impose financial penalty deposit requirement

- (1) A constable or vehicle examiner may impose a financial penalty deposit requirement on a person on any occasion if the conditions in this section are satisfied.
- (2) The constable or vehicle examiner must have reason to believe—
 - [^{F2}(a) that the person—
 - (i) is committing or has on that occasion committed an offence relating to a motor vehicle [^{F3}or trailer]; or
 - (ii) has, within the period of 28 days before the day of that occasion, committed an offence relating to a motor vehicle which is a Community drivers' hours offence, and]
 - (b) that the person, the offence and the circumstances in which the offence is committed are of a description specified in an order made by the Secretary of State.
- (3) The person must be—
 - (a) given written notification that it appears likely that proceedings will be brought against him in respect of the offence, or
 - (b) (if the offence is a fixed penalty offence) either given such notification or given a fixed penalty notice (or, in Scotland, handed a conditional offer) in respect of the offence.

Status: Point in time view as at 19/07/2018.

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- (4) The person must fail to provide a satisfactory address; and for this purpose “a satisfactory address” is an address in the United Kingdom at which the constable or vehicle examiner considers it likely that it would be possible to find the person whenever necessary to do so in connection with the proceedings, fixed penalty notice or conditional offer.
- (5) The person who is to impose the financial penalty deposit requirement—
- (a) if a constable, must be in uniform, and
 - (b) if a vehicle examiner, must produce his authority.
- [^{F4}(6) A constable or vehicle examiner may not impose a financial penalty deposit requirement on a person under this section in relation to a Community drivers’ hours offence where the constable or vehicle examiner has reason to believe that—
- (a) a financial penalty deposit requirement has already been imposed on the person under this section in relation to the offence;
 - (b) proceedings have already been initiated against the person for the offence; or
 - (c) any other penalty has already been imposed on, or other proceedings have already been initiated against, the person in respect of the relevant breach in Northern Ireland, another member State or a contracting third country.
- (7) In subsection (6)(c) “relevant breach” means the breach of the applicable Community rules which constitutes the Community drivers’ hours offence.]

Textual Amendments

- F2** S. 90A(2)(a) substituted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **7(2)** (with reg. 11)
- F3** Words in s. 90A(2)(a)(i) inserted (19.7.2018) by [Haulage Permits and Trailer Registration Act 2018 \(c. 19\)](#), s. 27(1), **Sch. para. 5**
- F4** S. 90A(6)(7) inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **7(3)** (with reg. 11)

90B Financial penalty deposit requirement

- (1) For the purposes of this Part of this Act a financial penalty deposit requirement is a requirement to make a payment of the appropriate amount to the Secretary of State—
- (a) in a manner specified in an order made by him, and
 - (b) either immediately or within the relevant period.
- (2) In this Part of this Act “the appropriate amount”, in relation to an offence and a person, is an amount specified in relation to the offence in an order made by the Secretary of State; and different amounts may be so specified—
- (a) by reference to whether the person is given notification that it appears likely that proceedings will be brought against him or given a fixed penalty notice (or handed a conditional offer), and
 - (b) otherwise by reference to the circumstances of the offence.
- (3) In this Part of this Act “the relevant period” means—
- (a) if the person was given a fixed penalty notice and proceedings are not brought in respect of the offence by virtue of this Act before the end of the suspended enforcement period, the suspended enforcement period,

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- (b) if he was handed a conditional offer and proceedings are not brought in respect of the offence by virtue of this Act before the end of the period of 28 days following the date on which the conditional offer was given or any longer period specified in the conditional offer, that period, and
- (c) otherwise, the period ending with the person being charged with the offence.

90C Making of payment in compliance with requirement

- (1) This section applies where a person on whom a financial penalty deposit requirement is imposed in respect of an offence makes a payment of the appropriate amount in accordance with section 90B(1) of this Act (and any order made under it).
- (2) On payment by the person of the appropriate amount the person by whom the payment is received must issue him with a written receipt for the payment specifying the effect of the following provisions of this section.
- (3) If the person was handed a conditional offer—
 - (a) the person is entitled to give notice requesting a hearing in respect of the offence, and
 - (b) the written receipt must specify the manner in which such notice is to be given.
- (4) In a case where—
 - (a) a fixed penalty notice relating to the offence has been given to the person or a conditional offer so relating has been handed to him,
 - (b) the person does not give notice requesting a hearing in respect of the offence before the end of the relevant period in the appropriate manner, and
 - (c) proceedings are not brought in respect of the offence by virtue of this Act, subsection (6) below applies.
- (5) In subsection (4)(b) above “the appropriate manner” means—
 - (a) if the person was given a fixed penalty notice, the manner specified in the fixed penalty notice, and
 - (b) if he was handed a conditional offer, the manner specified in the written receipt under subsection (2) above.
- (6) Where this subsection applies, the Secretary of State must—
 - (a) apply so much of the payment as does not exceed the amount of the fixed penalty in or towards payment of the fixed penalty, and
 - (b) take the appropriate steps to make any appropriate refund to the person.
- (7) In any other case—
 - (a) if the person is informed that he is not to be prosecuted for the offence, is acquitted of the offence or is convicted but not fined in respect of it, or the prosecution period comes to an end without a prosecution having been commenced against him in respect of it, subsection (9) below applies, and
 - (b) if a fine is imposed on the person in respect of the offence (otherwise than as a result of a conviction obtained on a prosecution commenced after the end of the prosecution period), subsection (10) below applies.
- (8) In this Part of this Act “the prosecution period” means the period of twelve months beginning with the imposition of the financial penalty deposit requirement or, if shorter, any period after which no prosecution may be commenced in respect of the offence.

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- (9) Where this subsection applies, the Secretary of State must take the appropriate steps to make the appropriate refund to the person.
- (10) Where this subsection applies, the Secretary of State must—
- (a) apply so much of the payment as does not exceed the amount of the fine in or towards payment of the fine, and
 - (b) take the appropriate steps to make any appropriate refund to the person.
- (11) Where the Secretary of State is required by this section to take the appropriate steps to make an appropriate refund, he must take such steps to trace the person and to make the refund to him, by such means, as are specified in an order made by the Secretary of State.
- (12) In this Part of this Act “the appropriate refund”, in any case, is a refund of—
- (a) where subsection (6) above applies, so much of the payment as exceeds the amount of the fixed penalty,
 - (b) where subsection (9) above applies, the amount of the payment, and
 - (c) where subsection (10) above applies, so much of the amount of the payment as exceeds the amount of the fine,
- together with interest calculated in accordance with provision made by order made by the Treasury.

90D Prohibition on driving on failure to make payment

- (1) This section applies where a person on whom a financial penalty deposit requirement is imposed does not make an immediate payment of the appropriate amount in accordance with section 90B(1) of this Act (and any order made under it).
- (2) The constable or vehicle examiner by whom the requirement was imposed may prohibit the driving on a road of any vehicle of which the person was in charge at the time of the offence by giving to the person notice in writing of the prohibition.
- (3) The prohibition—
- (a) shall come into force as soon as the notice is given, and
 - (b) shall continue in force until the happening of whichever of the events in subsection (4) below occurs first.
- (4) Those events are—
- (a) the person making a payment of the appropriate amount in accordance with section 90B(1) of this Act (and any order made under it) at any time during the relevant period,
 - (b) (where a fixed penalty notice was given, or a conditional offer handed, to the person in respect of the offence) payment of the fixed penalty,
 - (c) the person being convicted or acquitted of the offence,
 - (d) the person being informed that he is not to be prosecuted for the offence, and
 - (e) the coming to an end of the prosecution period.
- (5) A constable or vehicle examiner may by direction in writing require the person to remove the vehicle to which the prohibition relates (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition does not apply to the removal of the vehicle (or trailer) in accordance with the direction.

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- (6) A person who—
- (a) drives a vehicle in contravention of a prohibition under this section,
 - (b) causes or permits a vehicle to be driven in contravention of such a prohibition, or
 - (c) fails to comply within a reasonable time with a direction under subsection (5) above,
- is guilty of an offence.
- (7) The Secretary of State may by order provide for exceptions from subsection (6) above.
- (8) Schedule 4 to the Road Safety Act 2006 makes provision about the immobilisation of vehicles the driving of which has been prohibited under this section and about their removal and disposal.

90E Orders about financial penalty deposits

- (1) Any power conferred by section 90A, 90B, 90C or 90D of this Act on the Secretary of State or the Treasury to make an order shall be exercisable by statutory instrument.
- (2) Before making an order under any of those sections the Secretary of State or the Treasury must consult with such representative organisations as appear appropriate.
- (3) An order under any of those sections may make different provision for different cases.
- (4) No order shall be made under section 90B(2) of this Act unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing an order under section 90A, 90B(1), 90C or 90D of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

90F Financial penalty deposits: interpretation

In sections 90A to 90D of this Act—

[^{F5}“the applicable Community rules” has the meaning given by section 89(1) of this Act,]

“the appropriate amount” has the meaning given by section 90B(2) of this Act,

“the appropriate refund” has the meaning given by section 90C(12) of this Act,

[^{F6}“Community drivers’ hours offence” has the meaning given by section 89(3) of this Act,]

“conditional offer” means a notice under section 75(3)(a) [^{F7}or (3B)(a)] of this Act,

[^{F8}“contracting third country” has the meaning given by section 89(1) of this Act.]

“financial penalty deposit requirement” has the meaning given by section 90B(1) of this Act,

“fixed penalty notice” has the meaning given by section 52 of this Act,

“fixed penalty offence” is to be construed in accordance with section 51 of this Act,

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“the prosecution period” has the meaning given by section 90C(8) of this Act,

“the relevant period” has the meaning given by section 90B(3) of this Act,

“suspended enforcement period” is to be construed in accordance with section 52(3)(a) of this Act, and

“vehicle examiner” means an examiner appointed under section 66A of the Road Traffic Act 1988.]

Textual Amendments

- F5** Words in s. 90F inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **8(2)**
- F6** Words in s. 90F inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **8(3)**
- F7** Words in s. 90F inserted (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), ss. **128**, 134(4); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F8** Words in s. 90F inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **8(4)**

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