



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART I

#### TRIAL

##### *Introductory*

### **1 Requirement of warning etc. of prosecutions for certain offences.**

- (1) Subject to section 2 of this Act, [<sup>F1</sup>a person shall not be convicted of an offence to which this section applies unless]—
- (a) he was warned at the time the offence was committed that the question of prosecuting him for some one or other of the offences to which this section applies would be taken into consideration, or
  - (b) within fourteen days of the commission of the offence a summons (or, in Scotland, a complaint) for the offence was served on him, or
  - (c) within fourteen days of the commission of the offence a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was—
    - (i) in the case of an offence under section 28 or 29 of the <sup>M1</sup>Road Traffic Act 1988 (cycling offences), served on him,
    - (ii) in the case of any other offence, served on him or on the person, if any, registered as the keeper of the vehicle at the time of the commission of the offence.

[<sup>F2</sup>(1A) A notice required by this section to be served on any person may be served on that person—

- (a) by delivering it to him;
- (b) by addressing it to him and leaving it at his last known address; or
- (c) by sending it by registered post, recorded delivery service or first class post addressed to him at his last known address.]

*Status: Point in time view as at 02/04/2001.*

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- (2) A notice shall be deemed for the purposes of subsection (1)(c) above to have been served on a person if it was sent by registered post or recorded delivery service addressed to him at his last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by him.
- (3) The requirement of subsection (1) above shall in every case be deemed to have been complied with unless and until the contrary is proved.
- (4) Schedule 1 to this Act shows the offences to which this section applies.

#### Textual Amendments

- F1** Words in s. 1(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 80**; S.I. 1992/1286, art. 2, **Sch.**
- F2** S. 1(1A) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 6(3)**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A

#### Modifications etc. (not altering text)

- C1** Ss. 1, 2 excluded by Road Traffic Act 1988 (c. 52, SIF 107:1), s. 193, Sch. 4 paras. 8, **11**
- C2** S. 1: power to exclude or modify conferred (1.7.1992) by Road Traffic Act 1988 (c. 52, SIF 107:1), s. **193A(2)(b)** (inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. **46(2)**; S.I. 1992/1286, art. 2, **Sch.**).

#### Marginal Citations

- M1** 1988 c. 52.

## 2 Requirement of warning etc: supplementary.

- (1) The requirement of section 1(1) of this Act does not apply in relation to an offence if, at the time of the offence or immediately after it, an accident occurs owing to the presence on a road of the vehicle in respect of which the offence was committed.
- (2) The requirement of section 1(1) of this Act does not apply in relation to an offence in respect of which—
  - (a) a fixed penalty notice (within the meaning of Part III of this Act) has been given or fixed under any provision of that Part, or
  - (b) a notice has been given under section 54(4) of this Act.
- (3) Failure to comply with the requirement of section 1(1) of this Act is not a bar to the conviction of the accused in a case where the court is satisfied—
  - (a) that neither the name and address of the accused nor the name and address of the registered keeper, if any, could with reasonable diligence have been ascertained in time for a summons or, as the case may be, a complaint to be served or for a notice to be served or sent in compliance with the requirement, or
  - (b) that the accused by his own conduct contributed to the failure.
- <sup>F3</sup>(4) Failure to comply with the requirement of section 1(1) of this Act in relation to an offence is not a bar to the conviction of a person of that offence by virtue of the provisions of—
  - (a) section 24 of this Act, or
  - (b) any of the enactments mentioned in section 24(6);

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but a person is not to be convicted of an offence by virtue of any of those provisions if section 1 applies to the offence with which he was charged and the requirement of section 1(1) was not satisfied in relation to the offence charged.]

#### Textual Amendments

**F3** S. 2(4) substituted (1.7.1992) for s. 2(4)-(6) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para. 81; S.I. 1992/1286, art. 2, Sch.

#### Modifications etc. (not altering text)

**C3** Ss. 1, 2 excluded by Road Traffic Act 1988 (c. 52, SIF 107:1), s. 193, Sch. 4 paras. 8, 11

**C4** S. 2: power to exclude or modify conferred (1.7.1992) by Road Traffic Act 1988 (c. 52, SIF 107:1), s. 193A(2)(b) (inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 46(2); S.I. 1992/1286, art. 2, Sch.).

### 3 Restriction on institution of proceedings for certain offences.

[<sup>F4</sup>(1) . . .

.]

(2) In England and Wales, proceedings for an offence under section 94(3) of the Road Traffic Act 1988 (notice about relevant or prospective disability) shall not be instituted except by the Secretary of State or by a constable acting with the approval of the Secretary of State.

[<sup>F5</sup>(2A) In subsection (2) above the reference to section 94(3) of the Road Traffic Act 1988 includes a reference to that section as applied by section 99D of that Act.]

#### Textual Amendments

**F4** S. 3(1) repealed (1.4.1991) by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 16, Sch. 6

**F5** S. 3(2A) inserted (1.1.1997) by S.I. 1996/1974, reg. 3, Sch. 2 para. 1

### 4 Offences for which local authorities in England and Wales may institute proceedings.

(1) The council of a county, metropolitan district or London Borough or the Common Council of the City of London may institute proceedings for an offence under section [<sup>F6</sup>15A of the Road Traffic Act 1988 (safety equipment for children in motor vehicles) or under section 17 or 18 of that Act] (helmets and other head-worn appliances for motor cyclists).

(2) The council of a county, metropolitan district or London Borough or the Common Council of the City of London may institute proceedings for an offence under section 27 of that Act (dogs on roads) relating to a road in their area.

(3) The council of a county, district or London borough or the Common Council of the City of London may institute proceedings for offences under section [<sup>F7</sup>35A(1), (2) or (5)] of the <sup>M2</sup>Road Traffic Regulation Act 1984 which are committed in connection with

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parking places provided by the council, or provided under any letting arrangements made by the council under section 33(4) of that Act.

- (4) The council of a county, metropolitan district or London borough or the Common Council of the City of London may institute proceedings for an offence under section 47 or 52 of the Road Traffic Regulation Act 1984 in connection with a designated parking place controlled by the council.
- (5) In England, the council of a county or metropolitan district and, in Wales, the council of a county [<sup>F8</sup>or county borough] may institute proceedings for an offence under section 53 of the Road Traffic Regulation Act 1984 in connection with a designated parking place in the council's area <sup>F9</sup>. . .
- (6) In this section “parking place” means a place where vehicles, or vehicles of any class, may wait and “designated parking place” has the same meaning as in the <sup>M3</sup>Road Traffic Regulation Act 1984.
- (7) This section extends to England and Wales only.
- [<sup>F10</sup>(8) In relation to Wales, any reference in subsections (1) to (4) above to a county shall be read as including a reference to a county borough.]

#### Textual Amendments

- F6** Words in s. 4(1) substituted by [Motor Vehicles \(Safety Equipment for Children\) Act 1991 \(c. 14, SIF 107:1\)](#), s. 3(1).
- F7** Words substituted by [Parking Act 1989 \(c. 16, SIF 107:1\)](#), s. 4, [Sch. para. 10](#)
- F8** Words in s. 4(5) substituted (1.4.1996) by 1994 c. 19, s. 22(1), [Sch. 7 Pt. II](#), para. 41(2)(a); S.I. 1996/396, art. 3, [Sch. 1](#)
- F9** Words in s. 4(5) repealed (1.4.1996) by 1994 c. 19, ss. 22(1), 66(8), [Sch. 7 Pt. II](#), para. 41(2)(b), [Sch. 18](#); S.I. 1996/396, arts. 3, 4, [Sch. 1](#), [Sch. 2](#)
- F10** S. 4(8) inserted (1.4.1996) by 1994 c. 19, s. 22(1), [Sch. 7 Pt. II](#), para. 41(3); S.I. 1996/396, art. 3, [Sch. 1](#)

#### Marginal Citations

- M2** 1984 c. 27.
- M3** 1984 c. 27.

## 5 Exemption from Licensing Act offence.

A person liable to be charged with an offence under [<sup>F11</sup>section 3A, 4], 5, 7 or 30 of the <sup>M4</sup>Road Traffic Act 1988 (drink and drugs) is not liable to be charged under section 12 of the <sup>M5</sup>Licensing Act 1872 with the offence of being drunk while in charge, on a highway or other public place, of a carriage.

#### Textual Amendments

- F11** Words in s. 5 substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, [Sch. 4 para. 82](#); S.I. 1992/1286, [art. 2](#), [Sch.](#)

#### Marginal Citations

- M4** 1988 c. 52.

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M5 1872 c. 94.

## 6 Time within which summary proceedings for certain offences must be commenced.

- (1) Subject to subsection (2) below, summary proceedings for an offence to which this section applies 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.
- (2) No such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.
- (3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (5) In relation to proceedings in Scotland, subsection (3) of [F12]section 136 of the Criminal Procedure (Scotland) Act 1995] (date of commencement of proceedings) shall apply for the purposes of this section as it applies for the purposes of that.
- (6) Schedule 1 to this Act shows the offences to which this section applies.

### Textual Amendments

F12 Words in s. 6(5) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 71(2)

### Modifications etc. (not altering text)

C5 S. 6 applied (1.1.1996) by 1995 c. 23, s. 51

## 7 Duty of accused to provide licence.

[F13(1)] A person who is prosecuted for an offence involving [F14]obligatory or discretionary disqualification] and who is the holder of a licence must—

- (a) cause it to be delivered to the [F15]proper officer] of the court not later than the day before the date appointed for the hearing, or
- (b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or
- (c) have it with him at the hearing

[F16]and the foregoing obligations imposed on him as respects the licence also apply as respects the counterpart to the licence.]

[F17(2)] In subsection (1) above “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.]

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### Textual Amendments

- F13** Figure in s. 7 inserted (1.4.2001) by virtue of 1999 c. 22, s. 90(1), **Sch. 13 para. 141** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F14** Words in s. 7 substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 83**; S.I. 1992/1286, **art. 2, Sch.**
- F15** Words in s. 7(1)(a) substituted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 141** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F16** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 1**
- F17** S. 7(2) inserted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 141** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

### Modifications etc. (not altering text)

- C6** S. 7 applied with modifications by S.I. 1987/1378, **reg. 25(3)** (as amended by S.I. 1990/842, **reg. 9**)
- C7** S. 7: power to exclude or modify conferred (1.7.1992) by Road Traffic Act 1988 (c. 52, SIF 107:1), **s. 193A(2)(b)** (inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 46(2)**; S.I. 1992/1286, **art. 2, Sch.**).
- C8** S. 7 extended (1.6.1997) by 1995 c. 13, s. 6, **Sch. 1 Pt. II**, para. 3(2); S.I. 1997/267, **art. 2(2)**
- C9** S. 7 applied (with modifications) (12.11.1999) by S.I. 1999/2864, **reg. 80(5)(a)**

## 8 Duty to include date of birth and sex in written plea of guilty.

A person who—

- (a) gives a notification [<sup>F18</sup>to a justices' chief executive in pursuance of section 12(4)] of the <sup>M6</sup>Magistrates' Courts Act 1980 (written pleas of guilty), or
- (b) gives a written intimation of a plea of guilty in pursuance of section 334(3) of the <sup>M7</sup>Criminal Procedure (Scotland) Act 1975,

in respect of an offence involving obligatory or discretionary disqualification or of such other offence as may be prescribed by regulations under section 105 of the <sup>M8</sup>Road Traffic Act 1988, must include in the notification or intimation a statement of the date of birth and sex of the accused.

### Textual Amendments

- F18** Words in s. 8(a) substituted (1.4.2001) for words “to the clerk of a court in pursuance of section 12(2)” by virtue of 1999 c. 22, s. 90(1), **Sch. 13 para. 142** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

### Modifications etc. (not altering text)

- C10** S. 8: power to exclude or modify conferred (1.7.1992) by Road Traffic Act 1988 (c. 52, SIF 107:1), **s. 193A(2)(b)** (inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 46(2)**; S.I. 1992/1286, **art. 2, Sch.**).

### Marginal Citations

- M6** 1980 c. 43.  
**M7** 1975 c. 21.  
**M8** 1988 c. 52.

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## *Trial*

### **9 Mode of trial.**

An offence against a provision of the Traffic Acts specified in column 1 of Part I of Schedule 2 to this Act or regulations made under such a provision (the general nature of which offence is indicated in column 2) shall be punishable as shown against the offence in column 3 (that is, on summary conviction or on indictment or in either one way or the other).

### **10 Jurisdiction of district court in Scotland.**

- (1) Notwithstanding anything in any enactment or rule of law to the contrary, a district court in Scotland may try—
  - (a) any fixed penalty offence (within the meaning of Part III of this Act), and
  - (b) any other offence in respect of which a conditional offer (within the meaning of sections 75 to 77 of this Act) may be sent.
- (2) Subject to subsection (1) above, the district court may not try any offence involving obligatory endorsement.

### **11 Evidence by certificate as to driver, user or owner.**

- (1) In any proceedings in England and Wales for an offence to which this section applies, a certificate in the prescribed form, purporting to be signed by a constable and certifying that a person specified in the certificate stated to the constable—
  - (a) that a particular [<sup>F19</sup>mechanically propelled vehicle] was being driven or used by, or belonged to, that person on a particular occasion, or
  - (b) that a particular [<sup>F19</sup>mechanically propelled vehicle] on a particular occasion was used by, or belonged to, a firm and that he was, at the time of the statement, a partner in that firm, or
  - (c) that a particular [<sup>F19</sup>mechanically propelled vehicle] on a particular occasion was used by, or belonged to, a corporation and that he was, at the time of the statement, a director, officer or employee of that corporation,shall be admissible as evidence for the purpose of determining by whom the vehicle was being driven or used, or to whom it belonged, as the case may be, on that occasion.
- (2) Nothing in subsection (1) above makes a certificate admissible as evidence in proceedings for an offence except in a case where and to the like extent to which oral evidence to the like effect would have been admissible in those proceedings.
- (3) Nothing in subsection (1) above makes a certificate admissible as evidence in proceedings for an offence—
  - (a) unless a copy of it has, not less than seven days before the hearing or trial, been served in the prescribed manner on the person charged with the offence, or
  - (b) if that person, not later than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice in the prescribed form and manner on the prosecutor requiring attendance at the trial of the person who signed the certificate.

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- [<sup>F20</sup>(3A) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—
- (a) subsection (2), and
  - (b) in subsection (3), paragraph (b) and the word “or” immediately preceding it.]
- (4) In this section “prescribed” means prescribed by rules made by the Secretary of State by statutory instrument.
- (5) Schedule 1 to this Act shows the offences to which this section applies.

#### Textual Amendments

- F19** Words in s. 11(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 84**; S.I. 1992/1286, art. 2, **Sch.**
- F20** S. 11(3A) inserted (8.3.1997) (EW) by 1996 c. 25, s. 47, **Sch. 1 Pt. II**, para. 35 (with s. 78(1)); S.I. 1997/683, art. 1(2)

#### Modifications etc. (not altering text)

- C11** S. 11 extended by Greater London Council (General Powers) Act 1974 (c. xxxiv, SIF 107:1), s. 15(2) (b) (as amended by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 12(a)**)
- C12** S. 11: power to extend conferred by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 96(2)(d) (as substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(e)**)

## 12 Proof, in summary proceedings, of identity of driver of vehicle.

- (1) Where on the summary trial in England and Wales of an information for an offence to which this subsection applies—
- (a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules made under section 144 of the <sup>M9</sup>Magistrates' Courts Act 1980, that a requirement under section 172(2) of the <sup>M10</sup>Road Traffic Act 1988 to give information as to the identity of the driver of a particular vehicle on the particular occasion to which the information relates has been served on the accused by post, and
  - (b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of that vehicle on that occasion,
- the court may accept that statement as evidence that the accused was the driver of that vehicle on that occasion.
- (2) Schedule 1 to this Act shows the offences to which subsection (1) above applies.
- (3) Where on the summary trial in England and Wales of an information for an offence to which section 112 of the <sup>M11</sup>Road Traffic Regulation Act 1984 applies—
- (a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules made under section 144 of the Magistrates' Courts Act 1980, that a requirement under section 112(2) of the Road Traffic Regulation Act 1984 to give information as to the identity of the driver of a particular vehicle on the particular occasion to which the information relates has been served on the accused by post, and



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(b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of that vehicle on that occasion, the court may accept that statement as evidence that the accused was the driver of that vehicle on that occasion.

[<sup>F21</sup>(4) In summary proceedings in Scotland for an offence to which section 20(2) of the [<sup>F22</sup>this Act]] applies, where—

(a) it is proved to the satisfaction of the court that a requirement under section 172(2) of the Road Traffic Act 1988 to give information as to the identity of a driver on a particular occasion to which the complaint relates has been served on the accused by post, and

(b) a statement in writing is produced to the court, purporting to be signed by the accused, that the accused was the driver of that vehicle on that occasion, that statement shall be sufficient evidence that the accused was the driver of the vehicle on that occasion.

#### Textual Amendments

**F21** S. 12(4) added (1.4.1993 only for the purposes of summary criminal proceedings in Scotland which are commenced on or after 1.4.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para.85**; S.I. 1993/975, art. 2 Sch.

**F22** Words in s. 12(4) (as proposed to be inserted by 1991 c. 40, **Sch. 4 para. 85**) substituted (S.) (29.3.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 5** (with s. 47(2), Sch. 6 paras. 1, 2)

#### Modifications etc. (not altering text)

**C13** S. 12 extended by Greater London Council (General Powers) Act 1974 (c. xxiv, SIF 107:1, s. 15(2) (b) (as amended by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 12(a)**)

#### Marginal Citations

**M9** 1980 c. 43.

**M10** 1988 c. 52.

**M11** 1984 c. 27.

### 13 Admissibility of records as evidence.

(1) This section applies to a statement contained in a document purporting to be—

(a) a part of the records maintained by the Secretary of State in connection with any functions exercisable by him by virtue of Part III of the Road Traffic Act 1988 or a part of any other records maintained by the Secretary of State with respect to vehicles [or of any records maintained with respect to vehicles by an approved testing authority in connection with the exercise by that authority of any functions conferred on such authorities, or on that authority as such an authority, by or under any enactment], or

(b) a copy of a document forming part of those records, or

(c) a note of any information contained in those records,

and to be authenticated by a person authorised in that behalf by the Secretary of State.

(2) A statement to which this section applies shall be admissible in any proceedings as evidence (in Scotland, sufficient evidence) of any fact stated in it to the same extent as oral evidence of that fact is admissible in those proceedings.

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[<sup>F23</sup>(3) In the preceding subsections, except in Scotland—

“copy”, in relation to a document, means anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly;

“document” means anything in which information of any description is recorded; and

“statement” means any representation of fact, however made.

[ In any case where—

- <sup>F24</sup>(3A) (a) a person is convicted by a magistrates’ court of a summary offence under the Traffic Acts or the Road Traffic (Driver Licensing and Information Systems) Act 1989,
- (b) a statement to which this section applies is produced to the court in the proceedings,
- (c) the statement specifies an alleged previous conviction of the accused of an offence involving obligatory endorsement or an order made on the conviction, and
- (d) the accused is not present in person before the court when the statement is so produced,

the court may take account of the previous conviction or order as if the accused had appeared and admitted it.

(3B) Section 104 of the Magistrates’ Courts Act 1980 (under which previous convictions may be adduced in the absence of the accused after giving him seven days’ notice of them) does not limit the effect of subsection (3A) above.]

(3A) In Scotland, in the preceding subsections “document” and “statement” have the same meanings as in section 17(3) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, and the reference to a copy of a document shall be construed in accordance with section 17(4) of that Act; but nothing in this subsection shall be construed as limiting to civil proceedings the references to proceedings in subsection (2) above.]

(4) In any case where—

- (a) a statement to which this section applies is produced to a magistrates’ court in any proceedings for an offence involving obligatory or discretionary disqualification, [<sup>F25</sup>other than a summary offence under any of the enactments mentioned in subsection (3A)(a) above].
- (b) the statement specifies an alleged previous conviction of an accused person of any such offence or any order made on the conviction,
- (c) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed by rules under section 144 of the <sup>M12</sup>Magistrates’ Courts Act 1980, that not less than seven days before the statement is so produced a notice was served on the accused, in such form and manner as may be so prescribed, specifying the previous conviction or order and stating that it is proposed to bring it to the notice of the court in the event of or, as the case may be, in view of his conviction, and
- (d) the accused is not present in person before the court when the statement is so produced,

the court may take account of the previous conviction or order as if the accused had appeared and admitted it.

*Status: Point in time view as at 02/04/2001.*

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- (5) Nothing in the preceding provisions of this section enables evidence to be given in respect of any matter other than a matter of a description prescribed by regulations made by the Secretary of State.
- (6) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F26</sup>(7) Where the proceedings mentioned in subsection (2) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect as if—
- (a) in subsection (2) the words “to the same extent as oral evidence of that fact is admissible in those proceedings” were omitted;
  - (b) in subsection (4) the word “and” were inserted at the end of paragraph (a);
  - (c) in subsection (4), paragraphs (c) and (d) and the words “as if the accused had appeared and admitted it” were omitted.]

#### Textual Amendments

- F23** S. 13(3) substituted for s. 13(3)(3A) (31.1.1997) by 1995 c. 38, s. 15(1), [Sch. 1 para. 15](#); S.I. 1996/3217, [art. 2](#)
- F24** S. 13(3A)(3B) inserted after s. 13(3) (1.9.1998) by 1998 c. 15 s. 2(1); S.I. 1998/1837, [arts. 2, 3](#)
- F25** Words in s. 13(4)(a) inserted (1.9.1998) by 1998 c. 15, [s. 2\(2\)](#); S.I. 1998/1837, [arts. 2, 3](#)
- F26** S. 13(7) inserted (8.3.1997) (EW) by 1996 c. 25, s. 47, [Sch. 1 Pt. II para. 36](#); S.i. 1997/683, [art. 1\(2\)](#)

#### Marginal Citations

- M12** 1980 c. 43.

## 14 Use of records kept by operators of goods vehicles.

In any proceedings [<sup>F27</sup>for an offence under section 40A of the Road Traffic Act 1988 or] for a contravention of or failure to comply with construction and use requirements (within the meaning of Part II of the <sup>M13</sup>Road Traffic Act 1988) or regulations under section 74 of that Act, any record purporting to be made and authenticated in accordance with regulations under that section shall be evidence (and in Scotland sufficient evidence) of the matters stated in the record and of its due authentication.

#### Textual Amendments

- F27** Words in s. 14 inserted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, [Sch. 4 para.86](#); S.I. 1992/1286, [art. 2](#), Sch.

#### Marginal Citations

- M13** 1988 c. 52.

## 15 Use of specimens in proceedings for an offence under section 4 or 5 of the Road Traffic Act.

- (1) This section and section 16 of this Act apply in respect of proceedings for an offence under [<sup>F28</sup>section 3A, 4 or 5 of the Road Traffic Act 1988 (driving offences connected

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with drink or drugs)]; and expressions used in this section and section 16 of this Act have the same meaning as in [F29 sections 3A to 10] of that Act.

- (2) Evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by the accused shall, in all cases [F30 (including cases where the specimen was not provided in connection with the alleged offence)], be taken into account and, subject to subsection (3) below, it shall be assumed that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than in the specimen.
- [F31(3) That assumption shall not be made if the accused proves—
- (a) that he consumed alcohol before he provided the specimen and—
    - (i) in relation to an offence under section 3A, after the time of the alleged offence, and
    - (ii) otherwise, after he had ceased to drive, attempt to drive or be in charge of a vehicle on a road or other public place, and
  - (b) that had he not done so the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and, if it is alleged that he was unfit to drive through drink, would not have been such as to impair his ability to drive properly.]
- (4) A specimen of blood shall be disregarded unless it was taken from the accused with his consent by a medical practitioner.
- (5) Where, at the time a specimen of blood or urine was provided by the accused, he asked to be provided with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—
- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen provided by the accused was divided at the time it was provided, and
  - (b) the other part was supplied to the accused.

#### Textual Amendments

- F28** Words in s. 15(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 87(2)**; S.I. 1992/1286, **art. 2**, Sch.
- F29** Words in s. 15(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 87(2)**; S.I. 1992/1286, **art. 2**, Sch.
- F30** Words in s. 15(2) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 87(3)**; S.I. 1992/1286, **art. 2**, Sch.
- F31** S. 15(3) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 87(4)**; S.I. 1992/1286, **art. 2**, Sch.

## 16 Documentary evidence as to specimens in such proceedings.

- (1) Evidence of the proportion of alcohol or a drug in a specimen of breath, blood or urine may, subject to subsections (3) and (4) below and to section 15(5) of this Act, be given by the production of a document or documents purporting to be whichever of the following is appropriate, that is to say—
- (a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a constable (which may but need not be contained in the same document as the

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- statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement, and
- (b) a certificate signed by an authorised analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.
- (2) Subject to subsections (3) and (4) below, evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner may be given by the production of a document purporting to certify that fact and to be signed by a medical practitioner.
- (3) Subject to subsection (4) below—
- (a) a document purporting to be such a statement or such a certificate (or both such a statement and such a certificate) as is mentioned in subsection (1)(a) above is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than seven days before the hearing, and
- (b) any other document is so admissible only if a copy of it has been served on the accused not later than seven days before the hearing.
- (4) A document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than three days before the hearing or within such further time as the court may in special circumstances allow, has served notice on the prosecutor requiring the attendance at the hearing of the person by whom the document purports to be signed.
- (5) In Scotland—
- (a) a document produced in evidence on behalf of the prosecution in pursuance of subsection (1) or (2) above and, where the person by whom the document was signed is called as a witness, the evidence of that person, shall be sufficient evidence of the facts stated in the document, and
- (b) a written execution purporting to be signed by the person who handed to or served on the accused or the prosecutor a copy of the document or of the notice in terms of subsection (3) or (4) above, together with, where appropriate, a post office receipt for the registered or recorded delivery letter shall be sufficient evidence of the handing or service of such a copy or notice.
- (6) A copy of a certificate required by this section to be served on the accused or a notice required by this section to be served on the prosecutor may be served personally or sent by registered post or recorded delivery service.
- [<sup>F32</sup>(6A) Where the proceedings mentioned in section 15(1) of this Act are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of subsection (4).]
- (7) In this section “authorised analyst” means—
- (a) any person possessing the qualifications prescribed by regulations made under [<sup>F33</sup>section 27 of the Food Safety Act 1990] as qualifying persons for appointment as public analysts under those Acts, and
- (b) any other person authorised by the Secretary of State to make analyses for the purposes of this section.

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#### Textual Amendments

- F32** S. 16(6A) inserted (8.3.1997) (E.W.) by 1996 c. 25, s. 47, **Sch. 1 Pt. II**, para. 37, Pt. III para. 39; S.I. 1997/683, **art. 1(2)**
- F33** Words substituted by **Food Safety Act 1990** (c. 16, SIF 53:1, 2), s. 59(1), **Sch. 3 para. 38**

### 17 Provisions as to proceedings for certain offences in connection with the construction and use of vehicles and equipment.

- (1) If in any proceedings for an offence under [<sup>F34</sup>section 40A, 41A, 41B or 42 of the Road Traffic Act 1988 (using vehicle in dangerous condition or contravention] of construction and use regulations)—
- any question arises as to a weight of any description specified in the plating certificate for a goods vehicle, and
  - a weight of that description is marked on the vehicle,
- it shall be assumed, unless the contrary is proved, that the weight marked on the vehicle is the weight so specified.
- (2) If, in any proceedings for an offence—
- under Part II of the Road Traffic Act 1988, except sections 47 and 75, or
  - under section 174(2) or (5) (false statements and deception) of that Act,
- any question arises as to the date of manufacture of a vehicle, a date purporting to be such a date and marked on the vehicle in pursuance of regulations under that Part of that Act shall be evidence (and in Scotland sufficient evidence) that the vehicle was manufactured on the date so marked.
- (3) If in any proceedings for the offence of driving a <sup>F35</sup> . . . vehicle on a road, or causing or permitting a <sup>F35</sup> . . . vehicle to be so driven, in contravention of a prohibition under section 70(2) of the Road Traffic Act 1988 any question arises whether a weight of any description has been reduced to a limit imposed by construction and use requirements [<sup>F36</sup>, or so that it has ceased to be excessive,], the burden of proof shall lie on the accused.
- (4) If in any proceedings in Scotland for an offence under the Traffic Acts any question arises as to a weight of any description in relation to a vehicle—
- a certificate purporting to be signed by an inspector of weights and measures and certifying the accuracy of a weighbridge or other machine for weighing vehicles shall be sufficient evidence of the facts stated in the certificate, and
  - where the inspector is called as a witness his evidence shall be sufficient evidence of those facts.

In this subsection “inspector of weights and measures” has the same meaning as in the <sup>M14</sup>Weights and Measures Act 1985, except that it includes a chief inspector within the meaning of that Act.

#### Textual Amendments

- F34** Words in s. 17(1) substituted (1.7.1992) by **Road Traffic Act 1991** (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 88(2)**; S.I. 1992/1286, **art. 2**, Sch.
- F35** Words in s. 17(3) repealed (1.7.1992) by **Road Traffic Act 1991** (c. 40, SIF 107:1), s. 83, **Sch.8**; S.I. 1992/1286, **art. 2**, Sch. Appendix

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**F36** Words in s. 17(3) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para. 88(3); S.I. 1992/1286, art. 2, Sch.

**Marginal Citations**

**M14** 1985 c. 72.

**18 Evidence by certificate as to registration of driving instructors and licences to give instruction.**

- (1) A certificate signed by the Registrar and stating that, on any date—
- (a) a person’s name was, or was not, in the register,
  - (b) the entry of a person’s name was made in the register or a person’s name was removed from it,
  - (c) a person was, or was not, the holder of a current licence under section 129 of the Road Traffic Act 1988, or
  - (d) a licence under that section granted to a person came into force or ceased to be in force,
- shall be evidence, and in Scotland sufficient evidence, of the facts stated in the certificate in pursuance of this section.
- (2) A certificate so stating and purporting to be signed by the Registrar shall be deemed to be so signed unless the contrary is proved.
- (3) In this section “current licence”, “Registrar” and “register” have the same meanings as in Part V of the <sup>M15</sup>Road Traffic Act 1988.

**Marginal Citations**

**M15** 1988 c. 52.

**19 Evidence of disqualification in Scotland.**

[<sup>F37</sup>(1)]In any proceedings in Scotland for an offence under section 103(1)(b) of the Road Traffic Act 1988 (driving while disqualified) a conviction or extract conviction—

- (a) of which a copy has been served on the accused not less than fourteen days before his trial,
- (b) which purports to be signed by the clerk of court, and
- (c) which shows that the person named in it is disqualified for holding or obtaining a licence,

shall be sufficient evidence of the application of that disqualification to the accused, unless not [<sup>F38</sup>more than seven days after the date of service of the copy] he serves notice on the prosecutor that he denies that it applies to him.

- [<sup>F39</sup>(2) A copy of a conviction or extract conviction served on the accused under subsection (1) above shall be served in such manner as may be prescribed by Act of Adjournal, and a written execution purporting to be signed by the person who served such copy conviction or extract conviction together with, where appropriate, the relevant post office receipt shall be sufficient evidence of service of such a copy.]



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#### Textual Amendments

- F37** S. 19 renumbered s. 19(1) (31.3.1996) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I**, para. 171(a); S.I. 1996/517, **art. 3(2)**
- F38** Words in s. 19(1) (as renumbered by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I**, para. 171(a)) inserted (31.3.1996) by 1995 c. 20, s. 117(1), **Sch. 6 P. I**, para. 171(b); S.I. 1996/517, **art. 3(2)**
- F39** S. 19(2) inserted (31.3.1996) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I**, para. 171(c); S.I. 1996/517, **art. 3(2)**

#### Modifications etc. (not altering text)

- C14** S. 19 applied (20.10.1997) by 1997 c. 48, s. 15(1); S.I. 1997/2323, art. 3, **Sch. 1**

### [20] <sup>F40</sup> **Speeding offences etc: admissibility of certain evidence.**

(1) Evidence (which in Scotland shall be sufficient evidence) of a fact relevant to proceedings for an offence to which this section applies may be given by the production of—

- (a) a record produced by a prescribed device, and
- (b) (in the same or another document) a certificate as to the circumstances in which the record was produced signed by a constable or by a person authorised by or on behalf of the chief officer of police for the police area in which the offence is alleged to have been committed;

but subject to the following provisions of this section.

(2) This section applies to—

- (a) an offence under section 16 of the Road Traffic Regulation Act 1984 consisting in the contravention of a restriction on the speed of vehicles imposed under section 14 of that Act;
- (b) an offence under subsection (4) of section 17 of that Act consisting in the contravention of a restriction on the speed of vehicles imposed under that section;
- (c) an offence under section 88(7) of that Act (temporary minimum speed limits);
- (d) an offence under section 89(1) of that Act (speeding offences generally);
- (e) an offence under section 36(1) of the Road Traffic Act 1988 consisting in the failure to comply with an indication given by a light signal that vehicular traffic is not to proceed.

<sup>F41</sup> [ an offence under Part I or II of the Road Traffic Regulation Act 1984 of contravening or failing to comply with an order or regulations made under either of those Parts relating to the use of an area of road which is described as a bus lane or a route for use by buses only. ]

(3) The Secretary of State may by order amend subsection (2) above by making additions to or deletions from the list of offences for the time being set out there; and an order under this subsection may make such transitional provision as appears to him to be necessary or expedient.

(4) A record produced or measurement made by a prescribed device shall not be admissible as evidence of a fact relevant to proceedings for an offence to which this section applies unless—

- (a) the device is of a type approved by the Secretary of State, and



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- (b) any conditions subject to which the approval was given are satisfied.
- (5) Any approval given by the Secretary of State for the purposes of this section may be given subject to conditions as to the purposes for which, and the manner and other circumstances in which, any device of the type concerned is to be used.
- (6) In proceedings for an offence to which this section applies, evidence (which in Scotland shall be sufficient evidence)—
- (a) of a measurement made by a device, or of the circumstances in which it was made, or
- (b) that a device was of a type approved for the purposes of this section, or that any conditions subject to which an approval was given were satisfied,
- may be given by the production of a document which is signed as mentioned in subsection (1) above and which, as the case may be, gives particulars of the measurement or of the circumstances in which it was made, or states that the device was of such a type or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied.
- (7) For the purposes of this section a document purporting to be a record of the kind mentioned in subsection (1) above, or to be a certificate or other document signed as mentioned in that subsection or in subsection (6) above, shall be deemed to be such a record, or to be so signed, unless the contrary is proved.
- (8) Nothing in subsection (1) or (6) above makes a document admissible as evidence in proceedings for an offence unless a copy of it has, not less than seven days before the hearing or trial, been served on the person charged with the offence; and nothing in those subsections makes a document admissible as evidence of anything other than the matters shown on a record produced by a prescribed device if that person, not less than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice on the prosecutor requiring attendance at the hearing or trial of the person who signed the document.
- [<sup>F42</sup>(8A) Where the proceedings for an offence to which this section applies are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect as if in subsection (8) the words from "and nothing" to the end of the subsection were omitted.]
- [<sup>F43</sup>(8A) As respects proceedings in Scotland, a copy of a document served on a person under subsection (8) above shall be served in such manner as may be prescribed by Act of Adjournal, and a written execution purporting to be signed by the person who served such copy document together with, where appropriate, the relevant post office receipt shall be sufficient evidence of service of such a copy.]
- (9) In this section "prescribed device" means device of a description specified in an order made by the Secretary of State.
- (10) The powers to make orders under subsections (3) and (9) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F40** S. 20 substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 23; S.I. 1992/1286, art. 2, Sch.

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- F41** S. 20(2)(f) inserted (18.3.1997) by S.I. 1997/384, **art. 2**
- F42** S. 20(8A) inserted (E.W.) (8.3.1997) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para. 38**, Pt. III para. 39 (with s. 78(1)); S.I. 1997/683, **art. 1**
- F43** S. 20(8A) inserted (31.3.1996) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 172** and repealed (S.) (1.4.1996) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. I para. 16(3), Sch. 5 (with Sch. 3 paras. 1, 3, 6, 16, 17); S.I. 1996/517, **art. 3(2)**

**Modifications etc. (not altering text)**

- C15** S. 20(4) extended (1.7.1992) by S.I. 1992/1286, **art. 4(1)**

**21 Proceedings in which evidence of one witness sufficient in Scotland.**

- (1) In any proceedings in Scotland for an offence to which this subsection applies the accused may be convicted on the evidence of one witness.
- (2) Subsection (1) above applies to any offence created by or under an enactment and punishable on summary conviction, being an offence committed in respect of a vehicle—
  - (a) by its being on a road during the hours of darkness without the lights or reflectors required by law, or
  - (b) by its obstructing a road, or waiting, or being left or parked, or being loaded or unloaded, in a road, or
  - (c) by the non-payment of a charge made at a street parking place, or
  - (d) by its being used in contravention of any provision of an order made or having effect as if made under section 1 or 9 of the <sup>M16</sup>Road Traffic Regulation Act 1984, being a provision—
    - (i) as to the route to be followed by vehicles of the class to which that vehicle belongs, or
    - (ii) as to roads or parts of carriageways which are not to be used for traffic by such vehicles, or
    - (iii) as to the places where such vehicles may not turn so as to face in the opposite direction to that in which they were proceeding or as to the conditions under which such vehicles may so turn, or
  - <sup>F44</sup>(e) .....
  - <sup>F44</sup>(f) .....
- (3) Subsection (1) above also applies to any offence under section 35 [<sup>F45</sup>,36 or 172.]of the <sup>M17</sup>Road Traffic Act 1988.
- (4) In subsection (2) above—
  - “hours of darkness” means the time between half-an-hour after sunset and half-an-hour before sunrise, and
  - “street parking place” means a parking place on land which forms part of a road.
- (5) References in subsection (2) above to a class of vehicles are to be interpreted as references to a class defined or described by reference to any characteristics of the vehicles or to any other circumstances whatsoever.

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#### Textual Amendments

- F44** S. 21(2)(e)(f) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (with s. 57(4), Sch. 4)  
**F45** Words in s. 21(3) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 89**; S.I. 1992/1286, art. 2, **Sch.**

#### Marginal Citations

- M16** 1984 c. 27.  
**M17** 1988 c. 52.

## 22 Notification of disability.

- (1) If in any proceedings for an offence committed in respect of a motor vehicle it appears to the court that the accused may be suffering from any relevant disability or prospective disability (within the meaning of Part III of the Road Traffic Act 1988) the court must notify the Secretary of State.
- (2) A notice sent by a court to the Secretary of State in pursuance of this section must be sent in such manner and to such address and contain such particulars as the Secretary of State may determine.

#### Modifications etc. (not altering text)

- C16** S. 22: power to exclude or modify conferred (1.7.1992) by Road Traffic Act 1988 (c. 52, SIF 107:1), s. 193A(2)(b)(inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 46(2); S.I. 1992/1286, art. 2, Sch.).

### Verdict

## 23 Alternative verdicts in Scotland.

- (1) If on the trial on indictment in Scotland of a person for culpable homicide in connection with the driving of a [<sup>F46</sup> mechanically propelled vehicle] by him the jury are not satisfied that he is guilty of culpable homicide but are satisfied that he is guilty of an offence under section 2 of the Road Traffic Act 1988 ([<sup>F47</sup> dangerous] driving), they may find him guilty of that offence.

<sup>F48</sup>(2) .....

- (3) If on the trial on indictment in Scotland of a person for stealing a motor vehicle the jury are not satisfied that he is guilty of stealing the motor vehicle but are satisfied that he is guilty of an offence under section 178 of that Act (taking motor vehicle without authority etc.), they may find him guilty of an offence under that section.

#### Textual Amendments

- F46** Words in s. 23(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 90(2)(a)**; S.I. 1992/1286, art. 2, Sch.  
**F47** Word in s. 23(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 90(2)(b)**; S.I. 1992/1286, art. 2, Sch.

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**F48** S. 23(2) repealed (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, 83, Sch. 4 para. 90(3), Sch.8; S.I. 1992/1286, art. 2, Sch.Appendix

**[<sup>F49</sup>24 Alternative verdicts: general.**

(1) Where—

- (a) a person charged with an offence under a provision of the Road Traffic Act 1988 specified in the first column of the Table below (where the general nature of the offences is also indicated) is found not guilty of that offence, but
- (b) the allegations in the indictment or information (or in Scotland complaint) amount to or include an allegation of an offence under one or more of the provisions specified in the corresponding entry in the second column,

he may be convicted of that offence or of one or more of those offences.

<b>Offence charged</b>	<b>Alternative</b>
Section 1 (causing death by dangerous driving)	Section 2 (dangerous driving)  Section 3 (careless, and inconsiderate, driving)
Section 2 (dangerous driving)	Section 3 (careless, and inconsiderate, driving)
Section 3A (causing death by careless driving when under influence of drink or drugs)	Section 3 (careless, and inconsiderate, driving)  Section 4(1) (driving when unfit to drive through drink or drugs)  Section 5(1)(a) (driving with excess alcohol in breath, blood or urine)  Section 7(6) (failing to provide specimen)
Section 4(1) (driving or attempting to drive when unfit to drive through drink or drugs)	Section 4(2) (being in charge of a vehicle when unfit to drive through drink or drugs)
Section 5(1)(a) (driving or attempting to drive with excess alcohol in breath, blood or urine)	Section 5(1)(b) (being in charge of a vehicle with excess alcohol in breath, blood or urine)
Section 28 (dangerous cycling)	Section 29 (careless, and inconsiderate, cycling)

(2) Where the offence with which a person is charged is an offence under section 3A of the Road Traffic Act 1988, subsection (1) above shall not authorise his conviction of any offence of attempting to drive.

(3) Where a person is charged with having committed an offence under section 4(1) or 5(1)(a) of the Road Traffic Act 1988 by driving a vehicle, he may be convicted of having committed an offence under the provision in question by attempting to drive.

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- (4) Where by virtue of this section a person is convicted before the Crown Court of an offence triable only summarily, the court shall have the same powers and duties as a magistrates' court would have had on convicting him of that offence.
- (5) Where, in Scotland, by virtue of this section a person is convicted under solemn procedure of an offence triable only summarily, the penalty imposed shall not exceed that which would have been competent on a conviction under summary procedure.
- (6) This section has effect without prejudice to section 6(3) of the Criminal Law Act 1967 (alternative verdicts on trial on indictment), [F50 sections 295, 138(4), 256 and 293 of and Schedule 3 to the Criminal Procedure (Scotland) Act 1995]] and section 23 of this Act.

#### Textual Amendments

- F49** S. 24 substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\), s. 24; S.I. 1992/1286, art. 2, Sch.](#)
- F50** Words in s. 24(6) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\), Sch. 4 para. 71\(3\)](#)

#### *After conviction*

## 25 Information as to date of birth and sex.

- (1) If on convicting a person of an offence involving obligatory or discretionary disqualification or of such other offence as may be prescribed by regulations under section 105 of the <sup>M18</sup>Road Traffic Act 1988 the court does not know his date of birth, the court must order him to give that date to the court in writing.
- (2) If a court convicting a person of such an offence in a case where—
  - (a) notification has been given [F51 to a justices' chief executive in pursuance of section 12(4)] of the <sup>M19</sup>Magistrates' Courts Act 1980 (written pleas of guilty), or written intimation of a plea of guilty has been given in pursuance of section 334(3) of the <sup>M20</sup>Criminal Procedure (Scotland) Act 1975, and
  - (b) the notification or intimation did not include a statement of the person's sex, does not know the person's sex, the court must order the person to give that information to the court in writing.
- (3) A person who knowingly fails to comply with an order under subsection (1) or (2) above is guilty of an offence.
- (4) Nothing in [F52 section 7 of the Powers of Criminal Courts (Sentencing) Act 2000] (where magistrates' court commits a person to the Crown Court to be dealt with, certain powers and duties transferred to that court) applies to any duty imposed upon a magistrates' court by subsection (1) or (2) above.
- (5) Where a person has given his date of birth in accordance with this section or section 8 of this Act, the Secretary of State may serve on that person a notice in writing requiring him to provide the Secretary of State—
  - (a) with such evidence in that person's possession or obtainable by him as the Secretary of State may specify for the purpose of verifying that date, and
  - (b) if his name differs from his name at the time of his birth, with a statement in writing specifying his name at that time.

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- (6) A person who knowingly fails to comply with a notice under subsection (5) above is guilty of an offence.
- (7) A notice to be served on any person under subsection (5) above may be served on him by delivering it to him or by leaving it at his proper address or by sending it to him by post; and for the purposes of this subsection and section 7 of the <sup>M21</sup>Interpretation Act 1978 in its application to this subsection the proper address of any person shall be his latest address as known to the person serving the notice.

#### Textual Amendments

- F51** Words in s. 25(2)(a) substituted (1.4.2001) for words “to the clerk of a court in pursuance of section 12(2)” by virtue of 1999 c. 22, s. 90(1), **Sch. 13 para. 142** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F52** Words in s. 25(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 118**

#### Modifications etc. (not altering text)

- C17** S. 25: power to exclude or modify conferred (1.7.1992) by Road Traffic Act 1988 (c. 52, SIF 107:1), **s. 193A(2)(b)** (inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 46(2)**; S.I. 1992/1286, **art. 2, Sch.**)

#### Marginal Citations

- M18** 1988 c. 52.  
**M19** 1980 c. 43.  
**M20** 1975 c. 21.  
**M21** 1978 c. 30.

### [<sup>F53</sup>26 Interim disqualification.

- (1) Where a magistrates’ court—
- (a) commits an offender to the Crown Court under [<sup>F54</sup>section 6 of the Powers of Criminal Courts (Sentencing) Act 2000 or any enactment mentioned in subsection (4) of that section]], or
  - (b) remits an offender to another magistrates’ court under [<sup>F55</sup>section 10 of that Act],
- to be dealt with for an offence involving obligatory or discretionary disqualification, it may order him to be disqualified until he has been dealt with in respect of the offence.
- (2) Where a court in England and Wales—
- (a) defers passing sentence on an offender under [<sup>F56</sup>section 1 of that Act] in respect of an offence involving obligatory or discretionary disqualification, or
  - (b) adjourns after convicting an offender of such an offence but before dealing with him for the offence,
- it may order the offender to be disqualified until he has been dealt with in respect of the offence.
- (3) Where a court in Scotland—
- (a) adjourns a case under section 179 or section 380 of the Criminal Procedure (Scotland) Act 1975 (for inquiries to be made or to determine the most suitable method of dealing with the offender);

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- (b) remands a person in custody or on bail under section 180 or section 381 of the Criminal Procedure (Scotland) Act 1975 (to enable a medical examination and report to be made);
  - (c) defers sentence under section 219 or section 432 of the Criminal Procedure (Scotland) Act 1975;
  - (d) remits a convicted person to the High Court for sentence under section 104 of the Criminal Procedure (Scotland) Act 1975,
- in respect of an offence involving obligatory or discretionary disqualification, it may order the accused to be disqualified until he has been dealt with in respect of the offence.
- (4) Subject to subsection (5) below, an order under this section shall cease to have effect at the end of the period of six months beginning with the day on which it is made, if it has not ceased to have effect before that time.
  - (5) In Scotland, where a person is disqualified under this section where section 219 or section 432 of the Criminal Procedure (Scotland) Act 1975 (deferred sentence) applies and the period of deferral exceeds 6 months, subsection (4) above shall not prevent the imposition under this section of any period of disqualification which does not exceed the period of deferral.
  - (6) Where a court orders a person to be disqualified under this section (“the first order”), no court shall make a further order under this section in respect of the same offence or any offence in respect of which an order could have been made under this section at the time the first order was made.
  - (7) Where a court makes an order under this section in respect of any person it must—
    - (a) require him to produce to the court any licence held by him and its counterpart, and
    - (b) retain the licence and counterpart until it deals with him or (as the case may be) cause them to be sent to the [<sup>F57</sup>proper officer] of the court which is to deal with him.
- [<sup>F58</sup>(2) In subsection (7) above “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
  - (b) in relation to any other court, the clerk of the court.]
- (8) If the holder of the licence has not caused it and its counterpart to be delivered, or has not posted them, in accordance with section 7 of this Act and does not produce the licence and counterpart as required under subsection (7) above, then he is guilty of an offence.
  - (9) Subsection (8) above does not apply to a person who—
    - (a) satisfies the court that he has applied for a new licence and has not received it, or
    - (b) surrenders to the court a current receipt for his licence and its counterpart issued under section 56 of this Act, and produces the licence and counterpart to the court immediately on their return.
  - (10) Where a court makes an order under this section in respect of any person, sections 44(1) and [<sup>F59</sup> 47(2) and 91A(5)] of this Act and section 109(3) of the Road Traffic Act 1988 (Northern Ireland drivers’ licences) shall not apply in relation to the order, but—
    - (a) the court must send notice of the order to the Secretary of State, and



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- (b) if the court which deals with the offender determines not to order him to be disqualified under section 34 or 35 of this Act, it must send notice of the determination to the Secretary of State.
- (11) A notice sent by a court to the Secretary of State in pursuance of subsection (10) above must be sent in such manner and to such address and contain such particulars as the Secretary of State may determine.
- (12) Where on any occasion a court deals with an offender—
- (a) for an offence in respect of which an order was made under this section, or
  - (b) for two or more offences in respect of any of which such an order was made,
- any period of disqualification which is on that occasion imposed under section 34 or 35 of this Act shall be treated as reduced by any period during which he was disqualified by reason only of an order made under this section in respect of any of those offences.
- (13) Any reference in this or any other Act (including any Act passed after this Act) to the length of a period of disqualification shall, unless the context otherwise requires, be construed as a reference to its length before any reduction under this section.
- (14) In relation to licences which came into force before 1st June 1990, the references in this section to counterparts of licences shall be disregarded.

#### Textual Amendments

- F53** S. 26 substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 25; S.I. 1992/1286, art. 2, Sch.
- F54** Words in s. 26(1)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 119(2)(a)
- F55** Words in s. 26(1)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 119(2)(b)
- F56** Words in s. 26(2)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 119(3)
- F57** Words in s. 26(7)(b) substituted (1.4.2001) by 1999 c. 22, s. 90(1), Sch. 13 para. 143 (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)
- F58** S. 26(7)(2): by 1999 c. 22, s. 90(1), Sch. 13 para. 143 (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2) it is provided (1.4.2001) that after subsection (7) there shall be inserted subsection (2)
- F59** Words in s. 26(10) substituted (1.1.1997) by S.I. 1996/1974, reg. 3, Sch. 2 para. 2

#### Modifications etc. (not altering text)

- C18** S. 26: power to exclude or modify conferred (1.7.1992) by Road Traffic Act 1988 (c. 52, SIF 107:1), s. 193A(2)(b) (inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 46(2); S.I. 1992/1286, art. 2, Sch.).



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