



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART I

#### TRIAL

##### *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>M1</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 [<sup>F1</sup>to a justices' chief executive in pursuance of section 12(4)] of the <sup>M2</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>M3</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 [<sup>F2</sup>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—

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- (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.
- (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>M4</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

- F1** 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)
- F2** 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)

- C1** 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

- M1** 1988 c. 52.  
**M2** 1980 c. 43.  
**M3** 1975 c. 21.  
**M4** 1978 c. 30.

### [<sup>F3</sup>26 Interim disqualification.

- (1) Where a magistrates' court—
- (a) commits an offender to the Crown Court under [<sup>F4</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>F5</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>F6</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—

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- (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);
  - (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>F7</sup>proper officer] of the court which is to deal with him.
- [<sup>F8</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.

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- (10) Where a court makes an order under this section in respect of any person, sections 44(1) and [F9, 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
  - (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

- F3** 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.
- F4** 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)
- F5** 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)
- F6** Words in s. 26(2)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 119(3)
- F7** 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)
- F8** 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)
- F9** 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)

- C2** 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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