



# 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.]

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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) . . .

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(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 [<sup>F6</sup>or 109C] 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](#)

**F6** Words in [s. 3\(2A\)](#) inserted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), [s. 94\(1\)](#), [Sch. 5 para. 33](#); [S.I. 2004/2624](#), [art. 2\(1\)\(2\)\(b\)](#)

### 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>F7</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>F8</sup>35A(1), (2) or (5)]

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of the <sup>M2</sup>Road Traffic Regulation Act 1984 which are committed in connection with 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>F9</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>F10</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>F11</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

- F7** Words in s. 4(1) substituted by [Motor Vehicles \(Safety Equipment for Children\) Act 1991 \(c. 14, SIF 107:1\)](#), **s. 3(1)**.
- F8** Words substituted by [Parking Act 1989 \(c. 16, SIF 107:1\)](#), s. 4, **Sch. para. 10**
- F9** 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**
- F10** 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**
- F11** 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>F12</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

- F12** 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 <sup>[F13]</sup>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

F13 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.

<sup>[F14]</sup>(1) A person who is prosecuted for an offence involving <sup>[F15]</sup>obligatory or discretionary disqualification] and who is the holder of a licence must—

- (a) cause it to be delivered to the <sup>[F16]</sup>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

<sup>[F17]</sup>and the foregoing obligations imposed on him as respects the licence also apply as respects the counterpart to the licence.]

<sup>[F18]</sup>(2) In subsection (1) above “ proper officer ” means—

- (a) in relation to a magistrates’ court in England and Wales, the <sup>[F19]</sup>designated officer] for the court, and
- (b) in relation to any other court, the clerk of the court.]

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### Textual Amendments

- F14** 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)
- F15** 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.**
- F16** 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)
- F17** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 1**
- F18** 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)
- F19** Words in s. 7(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 310**; S.I. 2005/910, art. 3(y)

### 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>F20</sup>to [<sup>F21</sup>the designated officer for a magistrates' court] 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

- F20** 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)
- F21** Words in s. 8(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 311**; S.I. 2005/910, art. 3(y)

### 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.

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**M7** 1975 c. 21.

**M8** 1988 c. 52.

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