



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART II

#### SENTENCE

##### *Introductory*

#### 27 Production of licence.

(1) Where a person who is the holder of a licence is convicted of an offence involving obligatory [<sup>F1</sup>or discretionary disqualification, and a court proposes to make an order disqualifying him or an order under section 44 of this Act, the court must, unless it has already received them,], require the licence [<sup>F2</sup>and its counterpart] to be produced to it.

<sup>F3</sup>(2) .....

(3) If the holder of the licence has not caused it [<sup>F4</sup>and its counterpart] to be delivered, or posted it [<sup>F4</sup>and its counterpart], in accordance with section 7 of this Act and does not produce it [<sup>F4</sup>and its counterpart] as required [<sup>F5</sup>under this section or [<sup>F6</sup>section 40 of the Crime (Sentences) Act 1997, section 146 or 147 of the Powers of Criminal Courts (Sentencing) Act 2000] or section 223A or 436A of the Criminal Procedure (Scotland) Act 1975][<sup>F7</sup>, or if the holder of the licence does not produce it and its counterpart as required by section 40B of the <sup>M1</sup>Child Support Act 1991, then,] unless he satisfies the court that he has applied for a new licence and has not received it—

- (a) he is guilty of an offence, and
- (b) the licence shall be suspended from the time when its production was required until [<sup>F8</sup>it and its counterpart are] produced to the court and shall, while suspended, be of no effect.

(4) [<sup>F9</sup>Subsection (3) above does not apply where the holder of the licence—

- (a) has caused a current receipt for the licence [<sup>F10</sup>and its counterpart] issued under section 56 of this Act to be delivered to the [<sup>F11</sup>proper officer] of the court not later than the day before the date appointed for the hearing, or

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- (b) has posted such a receipt, at such time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the [<sup>F11</sup>proper officer] and either registered or sent by the recorded delivery service, or
- (c) surrenders such a receipt to the court at the hearing, and produces the licence [<sup>F12</sup>and its counterpart] to the court immediately on [<sup>F13</sup>their] return.]

[<sup>F14</sup>(5) In subsection (4) 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.]

### Textual Amendments

- F1** Words in s. 27(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 91(2)**; S.I. 1992/1286, art. 2, **Sch.**
- F2** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 3(a)**
- F3** S. 27(2) repealed (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), ss. 48, 83, Sch. 4 para. 91(3), **Sch. 8**; S.I. 1992/1286, art. 2, **Sch.**
- F4** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 3(b)**
- F5** Words in s. 27(3) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 91(4)**; S.I. 1992/1286, art. 2, **Sch.**
- F6** Words in s. 27(3) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 120**
- F7** Words in s. 27(3) substituted (2.4.2001) by 2000 c. 19, s. **16(5)** (with s. 83(6)); S.I. 2000/3354, **art. 2(3)**
- F8** Words substituted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 3(b)**
- F9** S. 27(4) repealed (S.) (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**
- F10** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 3(c)(i)**
- F11** Words in s. 27(4)(a)(b) substituted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 144(2)** (with s. 107, **Sch. 14 para. 7(2)**); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F12** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 3(c)(ii)(iii)**
- F13** Word substituted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 3(c)(ii)(iii)**
- F14** S. 27(5) inserted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 144(3)** (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)

- C1** S. 27: 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.**.
- C2** S. 27(1)(2) applied with modifications by S.I. 1987/1378, **reg. 25(3)** (as amended by S.I. 1990/842, **reg. 9**)  
S. 27(1)(3) applied (with modifications) (12.11.1999) by S.I. 1999/2864, **reg. 80(5)(b)**
- C3** S. 27(3) applied with modifications by S.I. 1987/1378, **reg. 25(3)** (as amended by S.I. 1990/842, **reg. 9**)  
S. 27(3) applied with modifications (1.1.1998) (EW) by 1997 c. 43, s. **39(5)(b)**, 40(6); S.I. 1997/2200, **art. 3(b)(c)** (with art. 5)
- C4** S. 27(3) extended by Powers of Criminal Courts Act 1973 (c. 62, SIF 39:1), s. **44(3)(a)** (as amended by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 11(b)**)  
S. 27 extended (1.1.1998) by 1997 c. 43, ss. **39(5)(b)**, 40(6); S.I. 1997/2200, **arts. 3(b)(c)**, 5

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#### Marginal Citations

M1 1991 c. 48

### [<sup>F15</sup>28] **Penalty points to be attributed to an offence.**

- (1) Where a person is convicted of an offence involving obligatory endorsement, then, subject to the following provisions of this section, the number of penalty points to be attributed to the offence is—
  - (a) the number shown in relation to the offence in the last column of Part I or Part II of Schedule 2 to this Act, or
  - (b) where a range of numbers is shown, a number within that range.
- (2) Where a person is convicted of an offence committed by aiding, abetting, counselling or procuring, or inciting to the commission of, an offence involving obligatory disqualification, then, subject to the following provisions of this section, the number of penalty points to be attributed to the offence is ten.
- (3) Where both a range of numbers and a number followed by the words “(fixed penalty)” is shown in the last column of Part I of Schedule 2 to this Act in relation to an offence, that number is the number of penalty points to be attributed to the offence for the purposes of sections 57(5) and 77(5) of this Act; and, where only a range of numbers is shown there, the lowest number in the range is the number of penalty points to be attributed to the offence for those purposes.
- (4) Where a person is convicted (whether on the same occasion or not) of two or more offences committed on the same occasion and involving obligatory endorsement, the total number of penalty points to be attributed to them is the number or highest number that would be attributed on a conviction of one of them (so that if the convictions are on different occasions the number of penalty points to be attributed to the offences on the later occasion or occasions shall be restricted accordingly).
- (5) In a case where (apart from this subsection) subsection (4) above would apply to two or more offences, the court may if it thinks fit determine that that subsection shall not apply to the offences (or, where three or more offences are concerned, to any one or more of them).
- (6) Where a court makes such a determination it shall state its reasons in open court and, if it is a magistrates’ court, or in Scotland a court of summary jurisdiction, shall cause them to be entered in the register (in Scotland, record) of its proceedings.
- (7) The Secretary of State may by order made by statutory instrument—
  - (a) alter a number or range of numbers shown in relation to an offence in the last column of Part I or Part II of Schedule 2 to this Act (by substituting one number or range for another, a number for a range, or a range for a number),
  - (b) where a range of numbers is shown in relation to an offence in the last column of Part I, add or delete a number together with the words “(fixed penalty)”, and
  - (c) alter the number of penalty points shown in subsection (2) above;and an order under this subsection may provide for different numbers or ranges of numbers to be shown in relation to the same offence committed in different circumstances.
- (8) Where the Secretary of State exercises his power under subsection (7) above by substituting or adding a number which appears together with the words “(fixed

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penalty)”, that number shall not exceed the lowest number in the range shown in the same entry.

- (9) No order shall be made under subsection (7) above unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

**F15** S. 28 substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\), s. 27](#); S.I. 1992/1286, [art. 2](#), Sch.

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

**C5** S. 28: 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.).

### [<sup>F16</sup>29 **Penalty points to be taken into account on conviction.**

- (1) Where a person is convicted of an offence involving obligatory endorsement, the penalty points to be taken into account on that occasion are (subject to subsection (2) below)—
- (a) any that are to be attributed to the offence or offences of which he is convicted disregarding any offence in respect of which an order under section 34 of this Act is made, and
  - (b) any that were on a previous occasion ordered to be endorsed on the counterpart of any licence held by him, unless the offender has since that occasion and before the conviction been disqualified under section 35 of this Act.
- (2) If any of the offences was committed more than three years before another, the penalty points in respect of that offence shall not be added to those in respect of the other.
- (3) In relation to licences which came into force before 1st June 1990, the reference in subsection (1) above to the counterpart of a licence shall be construed as a reference to the licence itself.]

#### Textual Amendments

**F16** S. 29 substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\), s.28](#); S.I. 1992/1286, [art. 2](#), Sch.

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

**C6** S. 29: 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.)

S. 29 modified (1.7.1992) by [S.I. 1992/1286, art. 6\(3\)](#)

### 30 **Penalty points: modification where fixed penalty also in question.**

- [<sup>F17</sup>(1) Sections 28 and 29 of this Act shall have effect subject to this section in any case where—
- (a) a person is convicted of an offence involving [<sup>F18</sup>obligatory endorsement], and

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- (b) the court is satisfied that [<sup>F19</sup>the counterpart of] his licence has been or is liable to be endorsed under section 57 or 77 of this Act in respect of an offence (referred to in this section as the “connected offence”) committed on the same occasion as the offence of which he is convicted.
- (2) <sup>F20</sup> . . . the number of penalty points to be attributed to the offence of which he is convicted is—
- (a) the number of penalty points to be attributed to that offence under section [<sup>F21</sup>28]of this Act apart from this section, less
  - (b) the number of penalty points required to be endorsed on [<sup>F22</sup>the counterpart of] his licence under section 57 or 77 of this Act in respect of the connected offence [<sup>F23</sup>(except so far as they have already been deducted by virtue of this paragraph)].
- <sup>F24</sup>(3) . . . . . ]

**Textual Amendments**

- F17** S. 30 repealed (S.) (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**
- F18** Words in s. 30(1)(a) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 92(2)**; S.I. 1992/1286, **art. 2**,Sch.
- F19** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 5(a)**
- F20** Words in s. 30(2) repealed (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), ss. 48, 83, **Sch. 4 para. 92(3)(a)**, **Sch. 8**; S.I. 1992/1286, **art. 2**,Sch.
- F21** Word in s. 30(2)(a) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 92(3)(b)**; S.I. 1992/1286, **art. 2**,Sch.
- F22** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 5(b)**
- F23** Words in s. 30(2)(b) added (1.7.1992) by Road Traffic Act 1991(c. 40, SIF 107:1), s. 48, **Sch. 4 para. 92(3)(c)**; S.I. 1992/1286, **art. 2**,Sch.
- F24** S. 30(3) repealed (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), ss. 48, 83, **Sch. 4 para. 92(4)**, **Sch. 8**; S.I. 1992/1286, **art. 2**,Sch.

**31 Court may take particulars endorsed on licence into consideration.**

- (1) Where a person is convicted of an offence involving [<sup>F25</sup>obligatory or discretionary disqualification] and his licence [<sup>F26</sup>and its counterpart are] produced to the court—
  - (a) any existing endorsement on [<sup>F27</sup>the counterpart of] his licence is prima facie evidence of the matters endorsed, and
  - (b) the court may, in determining what order to make in pursuance of the conviction, take those matters into consideration.
- (2) This section has effect notwithstanding anything in [<sup>F28</sup>section 166(1) to (6) of the Criminal Procedure (Scotland) Act 1995] (requirements as to notices of penalties and previous convictions).

**Textual Amendments**

- F25** Words in s. 31(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 93**; S.I. 1992/1286, **art. 2**, **Sch.**
- F26** Words substituted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 6(a)(b)**
- F27** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 6(a)(b)**
- F28** Words in s. 31(2) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 71(4)**

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

- C7** S. 31: 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.).

### 32 In Scotland, court may take extract from licensing records into account.

- (1) Subsections (2) to (5) below apply where a person is convicted in Scotland of an offence involving [<sup>F29</sup>obligatory or discretionary disqualification]but his licence [<sup>F30</sup>and its counterpart are] not produced to the court.
- (2) The court may, in determining what order to make in pursuance of the conviction, take into consideration (subject to subsection (3) below)—
  - (a) particulars of any previous conviction or disqualification pertaining to him, and
  - (b) any penalty points ordered to be endorsed on [<sup>F31</sup>the counterpart of] any licence held by him which are to be taken into account under section 29 of this Act,
 which are specified in a document purporting to be a note of information contained in the records maintained by the Secretary of State in connection with his functions under Part III of the <sup>M2</sup>Road Traffic Act 1988.
- (3) If the prosecutor lays before the court such a document as is mentioned in subsection (2) above, the court or the clerk of court must ask the accused if he admits the accuracy of the particulars relating to him contained in the document.
- (4) Where the accused admits the accuracy of any particulars, the prosecutor need not adduce evidence in proof of those particulars, and the admission must be entered in the record of the proceedings.
- (5) Where the accused does not admit the accuracy of any particulars, the prosecutor must, unless he withdraws those particulars, adduce evidence in proof of them, either then or at any other diet.
- (6) This section has effect notwithstanding anything in [<sup>F32</sup>section 166(1) to (6) of the Criminal Procedure (Scotland) Act 1995] (requirements as to notices of <sup>F33</sup>...previous convictions).

#### Textual Amendments

- F29** Words in s. 32(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para. 94; S.I. 1992/1286, art. 2, Sch.
- F30** Words substituted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 7(a)
- F31** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 7(b)
- F32** Words in s. 32(6) substituted (1.4.1996) by 1995 c. 40, s. 5, 7(2), sch. 4 para. 71(5)
- F33** Words in s. 32(6) repealed (31.3.1996) by 1995 c. 20, s. 117, Sch. 6 Pt. I, para. 173(b); S.I. 1996/517, art. 3(2)

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

- C8** S. 32: 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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M2 1988 c. 52.

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