



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART III

#### FIXED PENALTIES

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

- C1** Pt. III (ss. 51–90) amended by (E.W.) [S.I. 1990/335, art. 2\(1\)](#) and (S.) [S.I. 1990/466, art. 2\(1\)](#)  
Pt. III (ss. 51–90) amended (1.8.1999) by [S.I. 1999/1851, art. 2\(1\)](#)
- C2** Pt. III modified (16.8.2013) by [The Fixed Penalty Offences Order 2013 \(S.I. 2013/1565\)](#), arts. 1, 2
- C3** Definition in Pt. III (ss. 51–90) applied (E.W.) (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [ss. 18\(7\)\(b\)](#), 101(1) (with [Sch. 12 para. 6](#)); [S.I. 1992/333, art. 2\(2\)](#), [Sch.2](#)

#### *Introductory*

#### **51 Fixed penalty offences.**

- (1) Any offence in respect of a vehicle under an enactment specified in column 1 of Schedule 3 to this Act is a fixed penalty offence for the purposes of this Part of this Act, but subject to subsection (2) below and to any limitation or exception shown against the enactment in column 2 (where the general nature of the offence is also indicated).
- (2) An offence under an enactment so specified is not a fixed penalty offence for those purposes if it is committed by causing or permitting a vehicle to be used by another person in contravention of any provision made or restriction or prohibition imposed by or under any enactment.
- (3) The Secretary of State may by order provide for offences to become or (as the case may be) to cease to be fixed penalty offences for the purposes of this Part of this Act, and may make such modifications of the provisions of this Part of this Act as appear to him to be necessary for the purpose.

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Changes to legislation: Road Traffic Offenders Act 1988, Part III is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**52 Fixed penalty notices.**

- (1) In this Part of this Act “fixed penalty notice” means a notice offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty in accordance with this Part of this Act.
- (2) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.
- (3) A fixed penalty notice must state—
  - (a) the period during which, by virtue of section 78(1) of this Act, proceedings cannot be brought against any person for the offence to which the notice relates, being the period of twenty-one days following the date of the notice or such longer period (if any) as may be specified in the notice (referred to in this Part of this Act as the “suspended enforcement period”),
  - (b) the amount of the fixed penalty, and
  - (c) <sup>F1</sup>the person to] whom and the address at which the fixed penalty may be paid.

<sup>F2</sup>(4) .....

**Textual Amendments**

**F1** Words in s. 52(3)(c) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 2**; S.I. 2008/3164, art. 3(b)

**F2** S. 52(4) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

<sup>F3</sup>**[53 Amount of fixed penalty.**

- (1) The fixed penalty for an offence is—
  - (a) such amount as the Secretary of State may by order prescribe, or
  - (b) one half of the maximum amount of the fine to which a person committing that offence would be liable on summary conviction <sup>F4</sup>or, where there is no such maximum amount, the amount corresponding to level 4 on the standard scale for summary offences],
 whichever is the less.
- <sup>F5</sup>(2) Any order made under subsection (1)(a) above in relation to an offence may make provision for the fixed penalty for the offence to be different depending on the circumstances, including (in particular)—
  - (a) the nature of the contravention or failure constituting the offence,
  - (b) how serious it is,
  - (c) the area, or sort of place, where it takes place, and
  - (d) whether the offender appears to have committed any offence or offences of a description specified in the order during a period so specified.]]

**Textual Amendments**

**F3** S. 53 substituted (1.4.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para.102**; S.I. 1992/199, **arts. 3(2)(b), 4**; but see S.I.1992/435 for an expressed substitution (S.) (1.4.1992) of penalties in the previous form of s. 53

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| <p><b>F4</b> Words in s. 53(1)(b) inserted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), <b>Sch. 5 para. 5</b> (with reg. 5(1))</p> <p><b>F5</b> S. 53(2) substituted (5.1.2009) by Road Safety Act 2006 (c. 49), <b>ss. 3(2), 61(1)(10)</b> (with s. 61(3)); S.I. 2008/3164, art. 2(a)</p> |
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### *Giving notices to suspected offenders*

#### **54 Notices on-the-spot [<sup>F6</sup> etc.].**

- (1) This section applies where [<sup>F7</sup>in England and Wales] on any occasion a constable in uniform [<sup>F8</sup>, or a vehicle examiner who produces his authority,] has reason to believe that a person he finds
- [<sup>F9</sup>(a) is committing or has on that occasion committed a fixed penalty offence; or
  - (b) has, within the period of 28 days before the day of that occasion, committed a Community drivers' hours offence.]
- (2) Subject to [<sup>F10</sup>the following provisions of this section] , the constable [<sup>F11</sup>or vehicle examiner] may give him a fixed penalty notice in respect of the offence.
- [<sup>F12</sup>(3) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, the constable or vehicle examiner may only give him a fixed penalty notice under subsection (2) above in respect of the offence if—
- (a) the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence, and
  - (b) in the case of a person who is the holder of a licence, he produces it for inspection by the constable or vehicle examiner and surrenders it to him to be retained and dealt with in accordance with this Part of this Act.
- (4) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, subsection (5) below applies if—
- (a) the constable or vehicle examiner is unable to satisfy himself, by accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence, or
  - (b) in the case of a person who is the holder of a licence, he does not produce it for inspection by the constable or vehicle examiner.
- (5) Where this subsection applies, the constable or vehicle examiner may give the person a notice stating that if—
- (a) he delivers the notice and (if he is the holder of a licence) his licence in accordance with subsection (5A) below, and
  - (b) the requirements of subsection (5B) below are met,
- he will then be given a fixed penalty notice in respect of the offence.
- (5A) Delivery must—
- (a) if the notice is given by a constable, be made in person, within seven days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or

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- (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within fourteen days after the notice is given, to the Secretary of State at the place specified in the notice.
- (5B) If a person to whom a notice has been given under subsection (5) above delivers the notice and (if he is the holder of a licence) his licence in accordance with subsection (5A) above, and the following requirements are met, that is—
- (a) the person to whom the notice is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of the offence, and
- (b) if he is the holder of a licence, it is delivered to be retained and dealt with in accordance with this Part of this Act,
- the person to whom the notice is delivered must give him a fixed penalty notice in respect of the offence to which the notice under subsection (5) above relates.]
- (6) A notice under subsection [F13(5)] above shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.
- (7) A licence F14 ... surrendered [F15 or delivered] in accordance with this section must be sent to the fixed penalty clerk [F16 if the fixed penalty notice was given by a constable or authorised person].
- F17(8) .....
- [F18(8A) In a case where this section applies by virtue of subsection (1)(b), a constable or vehicle examiner may not give a person a fixed penalty notice for the Community drivers' hours offence if the constable or vehicle examiner has reason to believe that—
- (a) a fixed penalty notice has already been given under this section to the person in relation to the offence;
- (b) a conditional offer has already been issued to the person under section 75 of this Act in relation to the offence;
- (c) proceedings have already been initiated against the person for the offence; or
- (d) any other penalty has already been imposed on, or other proceedings have already been initiated against, the person in respect of the relevant breach in Northern Ireland, another member State or a contracting third country.
- (8B) In subsection (8A)(d) “relevant breach” means the breach of the applicable Community rules which constitutes the Community drivers' hours offence concerned.]
- (9) In this Part of this Act “authorised person”, in relation to a fixed penalty notice given at a police station, means a person authorised for the purposes of this section by or on behalf of the chief officer of police for the area in which the police station is situated [F19 or a person authorised for those purposes by or on behalf of the chief constable of the British Transport Police].
- [F20(10) In determining for the purposes of [F21 this section] whether a person convicted of an offence would be liable to disqualification under section 35, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I of Schedule 2 to this Act, that the number of penalty points to be attributed to the offence would be the lowest in the range.]

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### Textual Amendments

- F6** Word in s. 54 heading substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(9)**; S.I. 2008/3164, art. 3(b)
- F7** Words in s. 54(1) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 103(2)**; S.I. 1992/1286, art. 2, **Sch.**
- F8** Words in s. 54(1) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(2)**; S.I. 2008/3164, art. 3(b)
- F9** Words in s. 54(1) substituted (31.1.2018) by The Community Drivers Hours Offences (Enforcement) Regulations 2018 (S.I. 2018/24), regs. 1, **3(2)** (with reg. 11)
- F10** Words in s. 54(2) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 14(2)**; S.I. 2008/3164, art. 4(b)
- F11** Words in s. 54(2) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(3)**; S.I. 2008/3164, art. 3(b)
- F12** S. 54(3)-(5B) substituted for s. 54(3)-(5E) (8.6.2015) by Road Safety Act 2006 (c. 49), **ss. 10(4)**, 61(1)(10) (with s. 61(3)); S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F13** Word in s. 54(6) substituted (8.6.2015) by Road Safety Act 2006 (c. 49), **ss. 10(5)**, 61(1)(10); S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F14** Words in s. 54(7) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), **ss. 10(6)**, 61(1)(10), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F15** Words in s. 54(7) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(8)(a)**; S.I. 2008/3164, art. 3(b)
- F16** Words in s. 54(7) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(8)(b)**; S.I. 2008/3164, art. 3(b)
- F17** S. 54(8) 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
- F18** S. 54(8A)(8B) inserted (31.1.2018) by The Community Drivers Hours Offences (Enforcement) Regulations 2018 (S.I. 2018/24), regs. 1, **3(3)** (with reg. 11)
- F19** Words in s. 54(9) inserted (1.10.2002) by 2002 c. 30, s. **76(2)**; S.I. 2002/2306, art. **2(d)(vii)**
- F20** S. 54(10) added (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 103(3)**; S.I. 1992/1286, art. 2, **Sch.**
- F21** Words in s. 54(10) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 14(6)**; S.I. 2008/3164, art. 4(b)

### Modifications etc. (not altering text)

- C4** S. 54 extended (*prosp.*) by 2002 c. 30, **ss. 41**, 108(2)-(5), **Sch. 5 para. 1(2)(a)**
- C5** S. 54 extended (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 para. 1(2)(b)**; S.I. 2002/2750, art. **2(a)(ii)(a)**

## 55 Effect of fixed penalty notice given under section 54.

- (1) This section applies where a fixed penalty notice relating to an offence has been given to any person under section 54 of this Act, and references in this section to the recipient are to the person to whom the notice was given.
- (2) No proceedings shall be brought against the recipient for the offence to which the fixed penalty notice relates unless before the end of the suspended enforcement period he has given notice requesting a hearing in respect of that offence in the manner specified in the fixed penalty notice.
- (3) Where—
  - (a) the recipient has not given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates in the manner so specified, and

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- (b) the fixed penalty has not been paid in accordance with this Part of this Act before the end of the suspended enforcement period,  
a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 71 of this Act for enforcement against the recipient as a fine.

## 56 Licence receipts.

- (1) A [<sup>F22</sup>person] to whom a person surrenders [<sup>F23</sup>or delivers] his licence <sup>F24</sup>... on receiving a fixed penalty notice given to him under section 54 of this Act must issue a receipt for the licence <sup>F24</sup>... under this section.
- (2) [<sup>F25</sup>Where the duty in section 54(7) of this Act applies, the] fixed penalty clerk may, on the application of a person who has surrendered [<sup>F26</sup>or delivered] his licence <sup>F24</sup>... in those circumstances, issue a new receipt for [<sup>F27</sup>it].
- (3) A receipt issued under this section ceases to have effect—
- (a) if issued [<sup>F28</sup>under subsection (1) above], on the expiration of the period of one month beginning with the date of issue or such longer period as may be prescribed, and
- (b) if issued [<sup>F29</sup>under subsection (2) above], on such date as he may specify in the receipt,
- or, if earlier, on the return of the licence <sup>F24</sup>... to the licence holder.

### Textual Amendments

- F22** Word in s. 56(1) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 4(2)(a)**; S.I. 2008/3164, art. 3(b)
- F23** Words in s. 56(1) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 4(2)(b)**; S.I. 2008/3164, art. 3(b)
- F24** Words in s. 56 repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 46(2), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F25** Words in s. 56(2) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 4(3)(a)**; S.I. 2008/3164, art. 3(b)
- F26** Words in s. 56(2) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 4(3)(b)**; S.I. 2008/3164, art. 3(b)
- F27** Word in s. 56(2) substituted (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 3 para. 46(3)**; S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F28** Words in s. 56(3) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 4(4)(a)**; S.I. 2008/3164, art. 3(b)
- F29** Words in s. 56(3) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 4(4)(b)**; S.I. 2008/3164, art. 3(b)

## <sup>F31</sup>57 Endorsement of [<sup>F30</sup>counterparts ] without hearings.

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### Textual Amendments

- F30** Word in s. 57 heading substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 15(3)**; S.I. 2008/3164, art. 4(b)

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**F31** S. 57 repealed (8.6.2015) by Road Safety Act 2006 (c. 49), ss. 10(7), 61(1)(10), Sch. 7(4); S.I. 2015/560, art. 3 (with arts. 4-9)

### [<sup>F32</sup>57A Endorsement of driving records without hearings

- (1) Subject to subsection (2) below, where a person <sup>F33</sup>... has been given a fixed penalty notice under section 54 of this Act in respect of an offence involving obligatory endorsement, his driving record may be endorsed in accordance with this section without any order of a court.
- (2) A person's driving record may not be endorsed under this section if at the end of the suspended enforcement period—
  - (a) he has given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of the offence to which the fixed penalty notice relates, and
  - (b) the fixed penalty has not been paid in accordance with this Part of this Act.
- (3) If payment of the fixed penalty is made before the end of the suspended enforcement period and the person to whom the payment is made is the fixed penalty clerk, the fixed penalty clerk must send to the Secretary of State notice of the relevant particulars which are to be endorsed on the person's driving record [<sup>F34</sup>and return to that person any licence surrendered by him under section 54 of this Act.]
- (4) Where any sum determined by reference to the fixed penalty is registered under section 71 of this Act for enforcement against the person as a fine in a case where the fixed penalty is required to be paid to the fixed penalty clerk, the fixed penalty clerk must send to the Secretary of State notice of the relevant particulars which are to be endorsed on the person's driving record [<sup>F35</sup>and return to that person any licence surrendered by him under section 54 of this Act]—
  - (a) if he is himself the person who registers the sum, on the registration of that sum, and
  - (b) in any other case, on being notified of the registration by the person who registers that sum.
- (5) The Secretary of State must endorse the relevant particulars on the person's driving record if—
  - (a) he receives notice of them under subsection (3) or (4) above,
  - (b) the fixed penalty is paid to him before the end of the suspended enforcement period, or
  - (c) in a case where the fixed penalty is required to be paid to the Secretary of State, any sum determined by reference to the fixed penalty is registered under section 71 of this Act for enforcement against the person as a fine.
- (6) References in this section to the relevant particulars are to—
  - (a) particulars of the offence, including the date when it was committed, and
  - (b) the number of penalty points to be attributed to the offence.]

#### Textual Amendments

**F32** S. 57A inserted (1.4.2009) by Road Safety Act 2006 (c. 49), ss. 9(5), 61(1)(8)(10) (with s. 61(3)); S.I. 2008/3164, art. 4(b)

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- F33** Words in s. 57A(1) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), ss. 10(9), 61(1)(10), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F34** Words in s. 57A(3) inserted (8.6.2015) by Road Safety Act 2006 (c. 49), **ss. 10(10)**, 61(1)(10); S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F35** Words in s. 57A(4) inserted (8.6.2015) by Road Safety Act 2006 (c. 49), **ss. 10(11)**, 61(1)(10); S.I. 2015/560, art. 3(a) (with arts. 4-9)

**<sup>F37</sup>58 Effect of endorsement [<sup>F36</sup>of counterpart] without hearing.**

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**Textual Amendments**

- F36** Words in s. 58 heading inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 16**; S.I. 2008/3164, art. 4(b)
- F37** S. 58 repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 47, **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)

**<sup>F38</sup>58A Effect of endorsement of driving record without hearing**

- (1) Where a person's driving record is endorsed under section 57A of this Act he shall be treated for the purposes of sections 13(4), 28, 29 and 45A of this Act and of the Rehabilitation of Offenders Act 1974 as if—
  - (a) he had been convicted of the offence,
  - (b) the endorsement had been made in pursuance of an order made on his conviction by a court under section 44 of this Act, and
  - (c) the particulars of the offence endorsed by virtue of section 57A(6)(a) of this Act were particulars of his conviction of that offence.
- (2) In relation to any endorsement of a person's driving record under section 57A of this Act, the references in section 13(4) of this Act to any order made on a person's conviction are to be read as references to the endorsement itself.]

**Textual Amendments**

- F38** S. 58A inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 17**; S.I. 2008/3164, art. 4(b)

**PROSPECTIVE**

**<sup>F39</sup>59 Notification of court and date of trial in England and Wales.**

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**Textual Amendments**

- F39** S. 59 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**



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**F40**60 .....

**Textual Amendments**

**F40** S. 60 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**

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

**C6** S. 60 expressed to be amended (1.4.1996) by 1995 c. 40, s. 5, **Sch. 4 para. 71(8)(a)(b)(c)(i)(ii)**

**F42**61 **Fixed penalty notice mistakenly given [<sup>F41</sup>to licence holder]: exclusion of fixed penalty procedures.**

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**Textual Amendments**

**F41** Words in s. 61 heading inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 18**; S.I. 2008/3164, art. 4(b)

**F42** S. 61 repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 48, **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)

**[<sup>F43</sup>61A Fixed penalty notice mistakenly given <sup>F44</sup>...: exclusion of fixed penalty procedures**

- (1) This section applies where, on accessing information held on the driving record of a person to whom a fixed penalty notice was given under section 54 of this Act, <sup>F45</sup>... it appears to the fixed penalty clerk or the Secretary of State that the person would be liable to be disqualified under section 35 of this Act if he were convicted of the offence in respect of which the fixed penalty notice was given.
- (2) The person's driving record must not be endorsed under section 57A of this Act.
- (3) In a case where the fixed penalty is required to be paid to the fixed penalty clerk he must not send notice to the Secretary of State under section 57A of this Act but instead must notify the chief officer of police that the person to whom the fixed penalty notice was given would be liable to be disqualified under section 35 of this Act if he were convicted of the offence in respect of which the fixed penalty notice was given [<sup>F46</sup>and send the chief officer of police any licence sent to him under section 54(7) of this Act.]
- (4) Nothing in this Part of this Act prevents proceedings being brought in respect of the offence in respect of which the fixed penalty notice was given where those proceedings are commenced before the end of the period of six months beginning with the date on which that notice was given.
- (5) Where proceedings in respect of that offence are commenced before the end of that period, the case is from then on to be treated in all respects as if no fixed penalty notice had been given in respect of the offence.
- (6) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of this Part of this Act by reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision—

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- (a) the registration under section 71 of this Act of any sum, determined by reference to the fixed penalty for that offence, for enforcement against the person to whom the fixed penalty notice was given, and
  - (b) any proceedings for enforcing payment of any such sum within the meaning of sections 73 and 74 of this Act (defined in section 74(5)).
- (7) In determining for the purposes of subsection (1) above whether a person convicted of an offence would be liable to disqualification under section 35, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part 1 of Schedule 2 to this Act, that the number of penalty points to be attributed to the offence would be the lowest in the range.]

#### Textual Amendments

- F43** S. 61A inserted (1.4.2009) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), **Sch. 2 para. 19**; S.I. 2008/3164, art. 4(b)
- F44** Words in s. 61A heading repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), Sch. 3 para. 49(4), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F45** Words in s. 61A(1) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), Sch. 3 para. 49(2), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F46** Words in s. 61A(3) inserted (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), **Sch. 3 para. 49(3)**; S.I. 2015/560, art. 3(a) (with arts. 4-9)

#### *Notices fixed to vehicles*

### 62 Fixing notices to vehicles.

- (1) Where on any occasion a constable [<sup>F47</sup>or a vehicle examiner] has reason to believe in the case of any stationary vehicle that a fixed penalty offence is being or has on that occasion been committed in respect of it, he may fix a fixed penalty notice in respect of the offence to the vehicle unless the offence appears to him to involve obligatory endorsement.
- (2) A person is guilty of an offence if he removes or interferes with any notice fixed to a vehicle under this section, unless he does so by or under the authority of the driver or person in charge of the vehicle or the person liable for the fixed penalty offence in question.

#### Textual Amendments

- F47** Words in s. 62(1) inserted (31.3.2009) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), **Sch. 1 para. 7**; S.I. 2008/3164, art. 3(b)

### 63 Service of notice to owner if penalty not paid.

- (1) This section applies where a fixed penalty notice relating to an offence has been fixed to a vehicle under section 62 of this Act.
- (2) Subject to subsection (3) below, if at the end of the suspended enforcement period the fixed penalty has not been paid in accordance with this Part of this Act, a notice under this section may be served by or on behalf of the [<sup>F48</sup>relevant person] on any person

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who appears to him (or to any person authorised to act on his behalf for the purposes of this section) to be the owner of the vehicle.

Such a notice is referred to in this Part of this Act as a “notice to owner”.

[<sup>F49</sup>(2A) In this section “the relevant person” means—

- (a) if the fixed penalty notice was fixed by a constable, the chief officer of police, and
- (b) if it was fixed by a vehicle examiner, the Secretary of State.]

(3) Subsection (2) above does not apply where before the end of the suspended enforcement period—

- (a) any person has given notice requesting a hearing in respect of the offence in the manner specified in the fixed penalty notice, and
- (b) the notice so given contains a statement by that person to the effect that he was the driver of the vehicle at the time when the offence is alleged to have been committed.

That time is referred to in this Part of this Act as the “time of the alleged offence”.

(4) A notice to owner—

- (a) must give particulars of the alleged offence and of the fixed penalty concerned,
- (b) must state the period allowed for response to the notice, and
- (c) must indicate that, if the fixed penalty is not paid before the end of that period, the person on whom the notice is served is asked to provide before the end of that period to the [<sup>F50</sup>relevant person] a statutory statement of ownership (as defined in Part I of Schedule 4 to this Act).

(5) For the purposes of this Part of this Act, the period allowed for response to a notice to owner is the period of twenty-one days from the date on which the notice is served, or such longer period (if any) as may be specified in the notice.

(6) A notice to owner relating to any offence must indicate that the person on whom it is served may, before the end of the period allowed for response to the notice, either—

- (a) give notice requesting a hearing in respect of the offence in the manner indicated by the notice, or
- (b) if—
  - (i) he was not the driver of the vehicle at the time of the alleged offence, and
  - (ii) a person purporting to be the driver wishes to give notice requesting a hearing in respect of the offence,

provide, together with a statutory statement of ownership provided as requested in that notice, a statutory statement of facts (as defined by Part II of Schedule 4 to this Act) having the effect referred to in paragraph 3(2) of that Schedule (that is, as a notice requesting a hearing in respect of the offence given by the driver).

(7) In any case where a person on whom a notice to owner relating to any offence has been served provides a statutory statement of facts in pursuance of subsection (6)(b) above—

- (a) any notice requesting a hearing in respect of the offence that he purports to give on his own account shall be of no effect, and

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- (b) no sum may be registered for enforcement against him as a fine in respect of the offence unless, within the period of two months immediately following the period allowed for response to the notice to owner, no summons or, in Scotland, complaint in respect of the offence in question is served on the person identified in the statement as the driver.

#### Textual Amendments

- F48** Words in s. 63(2) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 8(2)**; S.I. 2008/3164, art. 3(b)
- F49** S. 63(2A) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 8(3)**; S.I. 2008/3164, art. 3(b)
- F50** Words in s. 63(4)(c) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 8(4)**; S.I. 2008/3164, art. 3(b)

## 64 Enforcement or proceedings against owner.

- (1) This section applies where—
- (a) a fixed penalty notice relating to an offence has been fixed to a vehicle under section 62 of this Act,
  - (b) a notice to owner relating to the offence has been served on any person under section 63(2) of this Act before the end of the period of six months beginning with the day on which the fixed penalty notice was fixed to the vehicle, and
  - (c) the fixed penalty has not been paid in accordance with this Part of this Act before the end of the period allowed for response to the notice to owner.
- (2) Subject to subsection (4) below and to section 63(7)(b) of this Act, a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 71 of this Act for enforcement against the person on whom the notice to owner was served as a fine.
- (3) Subject to subsection (4) below and to section 65 of this Act, proceedings may be brought in respect of the offence against the person on whom the notice to owner was served.
- (4) If the person on whom the notice to owner was served—
- (a) was not the owner of the vehicle at the time of the alleged offence, and
  - (b) provides a statutory statement of ownership to that effect in response to the notice before the end of the period allowed for response to the notice,
- he shall not be liable in respect of the offence by virtue of this section nor shall any sum determined by reference to the fixed penalty for the offence be so registered by virtue of this section for enforcement against him as a fine.
- (5) Subject to subsection (6) below—
- (a) for the purposes of the institution of proceedings by virtue of subsection (3) above against any person on whom a notice to owner has been served, and
  - (b) in any proceedings brought by virtue of that subsection against any such person,
- it shall be conclusively presumed (notwithstanding that that person may not be an individual) that he was the driver of the vehicle at the time of the alleged offence and,

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accordingly, that acts or omissions of the driver of the vehicle at that time were his acts or omissions.

- (6) That presumption does not apply in any proceedings brought against any person by virtue of subsection (3) above if, in those proceedings, it is proved that at the time of the alleged offence the vehicle was in the possession of some other person without the consent of the accused.
- (7) Where—
- (a) by virtue of subsection (3) above proceedings may be brought in respect of an offence against a person on whom a notice to owner was served, and
  - (b) section 74(1) of this Act does not apply,
- section 127(1) of the <sup>M1</sup>Magistrates' Courts Act 1980 (information must be laid within six months of time offence committed) and [<sup>F51</sup>section 136(1) of the Criminal Procedure (Scotland) Act 1995] (proceedings must be commenced within six months of that time) shall have effect as if for the reference to six months there were substituted a reference to twelve months.

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**Textual Amendments**

**F51** Words in s. 64(7) substituted (1.4.1996) by 1995 c. 40, s. 5, **Sch. 4 para. 71(9)**

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**Marginal Citations**

**M1** 1980 c. 43.

**65 Restrictions on proceedings against owner and others.**

- (1) In any case where a notice to owner relating to an offence may be served under section 63 of this Act, no proceedings shall be brought in respect of the offence against any person other than a person on whom such a notice has been served unless he is identified as the driver of the vehicle at the time of the alleged offence in a statutory statement of facts provided in pursuance of section 63(6)(b) of this Act by a person on whom such a notice has been served.
- (2) Proceedings in respect of an offence to which a notice to owner relates shall not be brought against the person on whom the notice was served unless, before the end of the period allowed for response to the notice, he has given notice, in the manner indicated by the notice to owner, requesting a hearing in respect of the offence.
- (3) Proceedings in respect of an offence to which a notice to owner relates may not be brought against any person identified as the driver of the vehicle in a statutory statement of facts provided in response to the notice if the fixed penalty is paid in accordance with this Part of this Act before the end of the period allowed for response to the notice.
- (4) Once any sum determined by reference to the fixed penalty for an offence has been registered by virtue of section 64 of this Act under section 71 for enforcement as a fine against a person on whom a notice to owner relating to that offence has been served, no proceedings shall be brought against any other person in respect of that offence.

**66 Hired vehicles.**

- (1) This section applies where—

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- (a) a notice to owner has been served on a vehicle-hire firm,
  - (b) at the time of the alleged offence the vehicle in respect of which the notice was served was let to another person by the vehicle-hire firm under a hiring agreement to which this section applies, and
  - (c) within the period allowed for response to the notice the firm provides the [<sup>F52</sup>relevant person] with the documents mentioned in subsection (2) below.
- (2) Those documents are a statement on an official form, signed by or on behalf of the firm, stating that at the time of the alleged offence the vehicle concerned was hired under a hiring agreement to which this section applies, together with—
- (a) a copy of that hiring agreement, and
  - (b) a copy of a statement of liability signed by the hirer under that hiring agreement.
- (3) In this section a “statement of liability” means a statement made by the hirer under a hiring agreement to which this section applies to the effect that the hirer acknowledges that he will be liable, as the owner of the vehicle, in respect of any fixed penalty offence which may be committed with respect to the vehicle during the currency of the hiring agreement and giving such information as may be prescribed.
- (4) In any case where this section applies, sections 63, 64 and 65 of this Act shall have effect as if—
- (a) any reference to the owner of the vehicle were a reference to the hirer under the hiring agreement, and
  - (b) any reference to a statutory statement of ownership were a reference to a statutory statement of hiring,

and accordingly references in this Part of this Act (with the exceptions mentioned below) to a notice to owner include references to a notice served under section 63 of this Act as it applies by virtue of this section.

This subsection does not apply to references to a notice to owner in this section or in section 81(2)(b) of or Part I of Schedule 4 to this Act.

- (5) In any case where this section applies, a person authorised in that behalf by the [<sup>F53</sup>person] to whom the documents mentioned in subsection (2) above are provided may, at any reasonable time within six months after service of the notice to owner (and on the production of his authority) require the firm to produce the originals of the hiring agreement and statement of liability in question.
- (6) If a vehicle-hire firm fails to produce the original of a document when required to do so under subsection (5) above, this section shall thereupon cease to apply (and section 64 of this Act shall apply accordingly in any such case after that time as it applies in a case where the person on whom the notice to owner was served has failed to provide a statutory statement of ownership in response to the notice within the period allowed).
- (7) This section applies to a hiring agreement under the terms of which the vehicle concerned is let to the hirer for a fixed period of less than six months (whether or not that period is capable of extension by agreement between the parties or otherwise); and any reference in this section to the currency of the hiring agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of the fixed period specified in the agreement, but otherwise on the terms and conditions so specified.
- (8) In this section—

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“hiring agreement” refers only to an agreement which contains such particulars as may be prescribed and does not include a hire-purchase agreement within the meaning of the <sup>M2</sup>Consumer Credit Act 1974, <sup>F54</sup>...

<sup>F55</sup> “relevant person” means—

- (a) if the fixed penalty notice was fixed by a constable, the chief officer of police by or on whose behalf the notice to owner was served, and
- (b) if it was fixed by a vehicle examiner, the Secretary of State, and]

“vehicle-hire firm” means any person engaged in hiring vehicles in the course of a business.

#### Textual Amendments

- F52** Words in s. 66(1)(c) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 9(2)**; S.I. 2008/3164, art. 3(b)
- F53** Word in s. 66(5) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 9(3)**; S.I. 2008/3164, art. 3(b)
- F54** Word in s. 66(8) repealed (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 7(2)**; S.I. 2008/3164, art. 3(d)
- F55** Words in s. 66(8) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 9(4)**; S.I. 2008/3164, art. 3(b)

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

- C7** Definitions in s. 66 applied (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. **82(1)**; S.I. 1991/2054, art. 3, Sch

#### Marginal Citations

- M2** 1974 c. 39.

### 67 False statements in response to notices to owner.

A person who, in response to a notice to owner, provides a statement which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.

### 68 “Owner”, “statutory statement” and “official form”.

- (1) For the purposes of this Part of this Act, the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and for the purposes of determining, in the course of any proceedings brought by virtue of section 64(3) of this Act, who was the owner of a vehicle at any time, it shall be presumed that the owner was the person who was the registered keeper of the vehicle at that time.
- (2) Notwithstanding the presumption in subsection (1) above, it is open to the defence in any proceedings to prove that the person who was the registered keeper of a vehicle at a particular time was not the person by whom the vehicle was kept at that time and to the prosecution to prove that the vehicle was kept by some other person at that time.
- (3) References in this Part of this Act to statutory statements of any description are references to the statutory statement of that description defined in Schedule 4 to this Act; and that Schedule shall also have effect for the purpose of requiring certain information to be provided in official forms for the statutory statements so defined to

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assist persons in completing those forms and generally in determining what action to take in response to a notice to owner.

- (4) In this Part of this Act “official form”, in relation to a statutory statement mentioned in Schedule 4 to this Act or a statement under section 66(2) of this Act, means a document supplied by or on behalf of a chief officer of police [<sup>F56</sup>or the Secretary of State] for use in making that statement.

#### Textual Amendments

**F56** Words in s. 68(4) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 10**; S.I. 2008/3164, art. 3(b)

### *The fixed penalty procedure*

#### **69 Payment of penalty.**

- (1) [<sup>F57</sup>Where a fixed penalty notice has been given or fixed by a constable or authorised person under this Part of this Act, payment of the fixed penalty] must be made to such [<sup>F58</sup>designated officer for a magistrates' court] or, in Scotland, clerk of court as may be specified in the fixed penalty notice relating to that penalty.
- [<sup>F59</sup>(1A) Where a fixed penalty notice has been given or fixed by a vehicle examiner, or given by the Secretary of State, under this Part of this Act, payment of the fixed penalty must be made to the Secretary of State.]
- (2) Without prejudice to payment by any other method, payment of a fixed penalty under this Part of this Act may be made by properly addressing, pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) and, unless the contrary is proved, shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (3) A letter is properly addressed for the purposes of subsection (2) above if it is addressed to the fixed penalty clerk [<sup>F60</sup>, or the Secretary of State,] at the address specified in the fixed penalty notice relating to the fixed penalty as the address at which the fixed penalty may be paid.
- (4) References in this Part of this Act [<sup>F61</sup>(except in sections 75 to [<sup>F62</sup>77A] )], in relation to any fixed penalty or fixed penalty notice, to the fixed penalty clerk are references to the [<sup>F63</sup>designated officer or] clerk specified in accordance with subsection (1) above in the fixed penalty notice relating to that penalty or (as the case may be) in that fixed penalty notice.

#### Textual Amendments

**F57** Words in s. 69(1) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 11(2)**; S.I. 2008/3164, art. 3(b)

**F58** Words in s. 69(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 315(2)**; S.I. 2005/910, art. 3(y)

**F59** S. 69(1A) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 11(3)**; S.I. 2008/3164, art. 3(b)

**F60** Words in s. 69(3) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 11(4)**; S.I. 2008/3164, art. 3(b)



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- F61** Words in s. 69(4) inserted (1.7.1992) by Road Traffic Act 1991 (c.40, SIF 107:1), s. 48, **Sch. 4 para. 105**; S.I. 1992/1286, art. 2, **Sch.**
- F62** Word in s. 69(4) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 20**; S.I. 2008/3164, art. 4(b)
- F63** Words in s. 69(4) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 315(3)**; S.I. 2005/910, art. 3(y)

## 70 Registration certificates.

- (1) This section and section 71 of this Act apply where by virtue of section 55(3) or 64(2) of this Act a sum determined by reference to the fixed penalty for any offence may be registered under section 71 of this Act for enforcement against any person as a fine.

In this section and section 71 of this Act—

- (a) that sum is referred to as a “sum payable in default”, and
- (b) the person against whom that sum may be so registered is referred to as the “defaulter”.

- (2) Subject to subsection (3) below, the [<sup>F64</sup>relevant person] may in respect of any sum payable in default issue a certificate (referred to in this section and section 71 as a “registration certificate”) stating that the sum is registrable under section 71 for enforcement against the defaulter as a fine.

[<sup>F65</sup>(2A) In subsection (2) above “the relevant person” means—

- (a) if the fixed penalty notice in question was given or fixed by a constable or given by an authorised person, the chief officer of police, and
- (b) if it was given or fixed by a vehicle examiner or given by the Secretary of State, the Secretary of State.]

- (3) Where the fixed penalty notice in question was given to the defaulter under section 54 in respect of an offence committed in Scotland—

- (a) subsection (2) above does not apply, but
- (b) the [<sup>F66</sup>appropriate person] must, unless the defaulter appears to him to reside within the jurisdiction of the court of summary jurisdiction of which he is himself the clerk, issue a registration certificate in respect of the sum payable in default.

[<sup>F67</sup>(3A) In subsection (3) above “the appropriate person” means—

- (a) if the fixed penalty notice in question was given or fixed by a constable or given by an authorised person, the fixed penalty clerk, and
- (b) if it was given or fixed by a vehicle examiner or given by the Secretary of State, the Secretary of State.]

- (4) Where [<sup>F68</sup>a person] issues a registration certificate under this section, he must—

- (a) if the defaulter appears to him to reside in England and Wales, cause it to be sent to the [<sup>F69</sup>designated officer for the local justice] area in which the defaulter appears to him to reside, <sup>F70</sup>...
- (b) if the defaulter appears to him to reside in Scotland, cause it to be sent to the clerk of a court of summary jurisdiction for the area in which the defaulter appears to him to reside, [<sup>F71</sup>and
- (c) otherwise—

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- (i) if the offence to which the fixed penalty notice or conditional offer relates was committed in England or Wales, cause it to be sent to the designated officer for the local justice area in which the offence was committed, or
  - (ii) if the offence was committed in Scotland, cause it to be sent to the clerk of a court of summary jurisdiction for the area in which the offence was committed.]
- (5) A registration certificate issued under this section in respect of any sum payable in default must—
- (a) give particulars of the offence to which the fixed penalty notice relates,
  - (b) indicate whether registration is authorised under section 55(3) or 64(2) of this Act, and
  - (c) state the name and last known address of the defaulter and the amount of the sum payable in default.

#### Textual Amendments

- F64** Words in s. 70(2) substituted (31.3.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(10\), Sch. 1 para. 12\(2\)](#); [S.I. 2008/3164, art. 3\(b\)](#)
- F65** S. 70(2A) inserted (31.3.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(10\), Sch. 1 para. 12\(3\)](#); [S.I. 2008/3164, art. 3\(b\)](#)
- F66** Words in s. 70(3) substituted (31.3.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(10\), Sch. 1 para. 12\(4\)](#); [S.I. 2008/3164, art. 3\(b\)](#)
- F67** S. 70(3A) inserted (31.3.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(10\), Sch. 1 para. 12\(5\)](#); [S.I. 2008/3164, art. 3\(b\)](#)
- F68** Words in s. 70(4) substituted (31.3.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(10\), Sch. 1 para. 12\(6\)](#); [S.I. 2008/3164, art. 3\(b\)](#)
- F69** Words in s. 70(4)(a) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 316](#); [S.I. 2005/910, art. 3\(y\)](#)
- F70** Word in s. 70(4) repealed (1.4.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(8\)\(10\), Sch. 7\(3\)](#); [S.I. 2008/3164, art. 4\(c\)](#)
- F71** S. 70(4)(c) and word inserted (1.4.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(10\), Sch. 2 para. 21\(1\)](#); [S.I. 2008/3164, art. 4\(b\)](#)

#### 71 Registration of sums payable in default.

- [<sup>F72</sup>(1) Where, in England and Wales, [<sup>F73</sup>the designated officer for a local justice area] receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default—
- (a) if it appears to him that the defaulter resides in a [<sup>F74</sup>local justice area for which he is the designated officer], he must register that sum for enforcement as a fine in that area by entering it in the register of a magistrates' court [<sup>F75</sup>acting in] that area, [<sup>F76</sup>or]
  - (b) if it appears to him that the defaulter resides in any [<sup>F77</sup>other local justice] area in England and Wales, he must send the certificate to the [<sup>F78</sup>designated officer for] that area, or
  - (c) if it appears to him that the defaulter resides in Scotland, he must send the certificate to the clerk of the court of summary jurisdiction for the area in which the defaulter appears to him to reside, [<sup>F79</sup>or

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- (d) if it appears to him that the defaulter does not reside in England, Wales or Scotland—
  - (i) in a case where the offence to which the fixed penalty notice or conditional offer relates was committed in the local justice area for which he is the designated officer, he must register that sum for enforcement as a fine in that area by entering it in the register of a magistrates' court acting in that area,
  - (ii) in a case where it was committed in another local justice area in England and Wales, he must send the certificate to the designated officer for that area, and
  - (iii) in a case where it was committed in Scotland, he must send the certificate to the clerk of a court of summary jurisdiction for the area in which the offence was committed.]
- (2) Where, in Scotland, the clerk of a court receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default—
  - (a) if it appears to him that the defaulter resides in the area of the court, he must register that sum for enforcement as a fine by that court, [<sup>F80</sup>or]
  - (b) if it appears to him that the defaulter resides in the area of any other court of summary jurisdiction in Scotland, he must send the certificate to the clerk of that court, or
  - (c) if it appears to him that the defaulter resides in England and Wales, he must send the certificate to the [<sup>F81</sup>designated officer for the local justice] area in which the defaulter appears to him to reside, [<sup>F82</sup>or
  - (d) if it appears to him that the defaulter does not reside in England, Wales or Scotland—
    - (i) in a case where the offence to which the fixed penalty notice or conditional offer relates was committed in the area of the court, he must register that sum for enforcement as a fine by that court,
    - (ii) in a case where it was committed in an area of any other court of summary jurisdiction in Scotland, he must send the certificate to the clerk of that court, and
    - (iii) in a case where it was committed in England or Wales, he must send the certificate to the designated officer for the local justice area in which the offence was committed.]
- (2A) Subsections (1) and (2) apply to [<sup>F83</sup>officers] and clerks who receive certificates pursuant to the provision they contain as they apply to the original recipients.]
- (3) Where—
  - (a) the fixed penalty notice in question was given to the defaulter under section 54 of this Act in respect of an offence committed in Scotland, and
  - (b) the defaulter appears to the fixed penalty clerk to reside within the jurisdiction of the court of summary jurisdiction of which he is himself the clerk,the fixed penalty clerk must register the sum payable in default for enforcement as a fine by that court.
- <sup>F84</sup>(4) .....
- (5) .....

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- (6) On registering any sum under this section for enforcement as a fine, the [<sup>F85</sup>designated officer for a local justice] area or, as the case may be, the clerk of a court of summary jurisdiction must give to the defaulter notice of registration—
- (a) specifying the amount of that sum, and
  - (b) giving the information with respect to the offence and the authority for registration included in the registration certificate by virtue of section 70(5)(a) and (b) of this Act or (in a case within subsection (3) above) the corresponding information.
- (7) On the registration of any sum in a magistrates' court or a court of summary jurisdiction by virtue of this section any enactment referring (in whatever terms) to a fine imposed or other sum adjudged to be paid on the conviction of such a court shall have effect in the case in question as if the sum so registered were a fine imposed by that court on the conviction of the defaulter on the date of the registration.
- (8) Accordingly, in the application by virtue of this section of the provisions of the <sup>M3</sup>Magistrates' Courts Act 1980 relating to the satisfaction and enforcement of sums adjudged to be paid on the conviction of a magistrates' court, section 85 of that Act (power to remit a fine in whole or in part) is not excluded by subsection (2) of that section (references in that section to a fine not to include any other sum adjudged to be paid on a conviction) from applying to a sum registered in a magistrates' court by virtue of this section.
- (9) For the purposes of this section, where the defaulter is a body corporate, the place where that body resides and the address of that body are either of the following—
- (a) the registered or principal office of that body, and
  - (b) the address which, with respect to the vehicle concerned, is the address recorded in the record kept under [<sup>F86</sup>the Vehicle Excise and Registration Act 1994] as being that body's address.

#### Textual Amendments

- F72** S. 71(1)-(2A) substituted (1.4.2001) for subsections (1) and (2) by 1999 c. 22, s. 90, **Sch. 13 para. 150(2)** (with s. 107, **Sch. 14 para. 7(2)**); S.I. 2001/916, **art. 2(a)(ii)** (with **Sch. 2 para. 2**)
- F73** Words in s. 71(1) substituted (1.4.2005) by **Courts Act 2003 (c. 39)**, s. 110(1), **Sch. 8 para. 317(2)(a)**; S.I. 2005/910, **art. 3(y)**
- F74** Words in s. 71(1) substituted (1.4.2005) by **Courts Act 2003 (c. 39)**, s. 110(1), **Sch. 8 para. 317(2)(b)**; S.I. 2005/910, **art. 3(y)**
- F75** Words in s. 71(1) substituted (1.4.2005) by **Courts Act 2003 (c. 39)**, s. 110(1), **Sch. 8 para. 317(2)(c)**; S.I. 2005/910, **art. 3(y)**
- F76** Word in s. 71(1) inserted (1.4.2009) by **Road Safety Act 2006 (c. 49)**, s. 61(1)(10), **Sch. 2 para. 22(2)**; S.I. 2008/3164, **art. 4(b)**
- F77** Words in s. 71(1) substituted (1.4.2005) by **Courts Act 2003 (c. 39)**, s. 110(1), **Sch. 8 para. 317(2)(d)**; S.I. 2005/910, **art. 3(y)**
- F78** Words in s. 71(1) substituted (1.4.2005) by **Courts Act 2003 (c. 39)**, s. 110(1), **Sch. 8 para. 317(2)(e)**; S.I. 2005/910, **art. 3(y)**
- F79** S. 71(1)(d) and word inserted (1.4.2009) by **Road Safety Act 2006 (c. 49)**, s. 61(1)(10), **Sch. 2 para. 22(2)**; S.I. 2008/3164, **art. 4(b)**
- F80** Word in s. 71(2) inserted (1.4.2009) by **Road Safety Act 2006 (c. 49)**, s. 61(1)(10), **Sch. 2 para. 22(3)**; S.I. 2008/3164, **art. 4(b)**
- F81** Words in s. 71(2)(c) substituted (1.4.2005) by **Courts Act 2003 (c. 39)**, s. 110(1), **Sch. 8 para. 317(3)**; S.I. 2005/910, **art. 3(y)**

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- F82** S. 71(2)(d) and word inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 22(3)**; S.I. 2008/3164, art. 4(b)
- F83** Word in s. 71(2A) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 317(4)**; S.I. 2005/910, art. 3(y)
- F84** S. 71(4)(5) repealed (1.4.2001) by 1999 c. 22, s. 90, **Sch. 15 Pt. V(7)** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 2(c)(ii)** (with Sch. 2 para. 2)
- F85** Words in s. 71(6) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 317(5)**; S.I. 2005/910, art. 3(y)
- F86** Words in S. 71(9)(b) substituted (1.9.1994) by 1994 c. 22, ss. 63, 66, **Sch. 3 para. 25(1)** (with s. 57(4))

**Marginal Citations**

- M3** 1980 c. 43.

**72 Notices on-the-spot [<sup>F87</sup> etc.]: when registration and endorsement invalid.**

- (1) This section applies where—
  - (a) a person who has received notice of the registration, by virtue of section 55(3) of this Act, of a sum under section 71 of this Act for enforcement against him as a fine makes a statutory declaration to the effect mentioned in subsection (2) below, and
  - (b) that declaration is, within twenty-one days of the date on which the person making it received notice of the registration, served on the [<sup>F88</sup>proper officer] of the relevant court.
- (2) The statutory declaration must state—
  - (a) that the person making the declaration was not the person to whom the relevant fixed penalty notice was given, or
  - (b) that he gave notice requesting a hearing in respect of the alleged offence as permitted by the fixed penalty notice before the end of the suspended enforcement period.
- (3) In any case within subsection (2)(a) above, the relevant fixed penalty notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void.

<sup>F89</sup>(4) .....

[<sup>F90</sup>(4A) Where in any case within subsection (2)(a) above the driving record of the person to whom the relevant fixed penalty notice was given was endorsed under section 57A of this Act in respect of the offence in respect of which the notice was given, the endorsement shall be void.]

- (5) In any case within subsection (2)(b) above—
  - (a) the registration, any proceedings taken before the declaration was served for enforcing payment of the sum registered, and any endorsement, in respect of the offence in respect of which the relevant fixed penalty notice was given, made under section <sup>F91</sup>... [<sup>F92</sup>57A] of this Act before the declaration was served, shall be void, and
  - (b) the case shall be treated after the declaration is served as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.

<sup>F93</sup>(6) .....

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[<sup>F94</sup>(6A) The proper officer of the relevant court must send notice to the Secretary of State of any endorsement of a person's driving record that is void by virtue of this section and the Secretary of State must adjust the endorsements on that record accordingly.]

(7) References in this section to the relevant fixed penalty notice are to the fixed penalty notice relating to the fixed penalty concerned.

#### Textual Amendments

- F87** Word in s. 72 heading substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 13(3)**; S.I. 2008/3164, art. 3(b)
- F88** Words in s. 72(1)(b)(6) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 151** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F89** S. 72(4) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 50(2), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F90** S. 72(4A) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 23(2)**; S.I. 2008/3164, art. 4(b)
- F91** Words in s. 72(5) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 50(3), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F92** Words in s. 72(5)(a) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 23(3)**; S.I. 2008/3164, art. 4(b)
- F93** S. 72(6) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 50(4), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F94** S. 72(6A) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 23(4)**; S.I. 2008/3164, art. 4(b)

### 73 Notices fixed to vehicles: when registration invalid.

- (1) This section applies where—
- (a) a person who has received notice of the registration, by virtue of section 64(2) of this Act, of a sum under section 71 of this Act for enforcement against him as a fine makes a statutory declaration to the effect mentioned in subsection (2) below, and
  - (b) that declaration is, within twenty-one days of the date on which the person making it received notice of the registration, served on the [<sup>F95</sup>proper officer] of the relevant court.
- (2) The statutory declaration must state either—
- (a) that the person making the declaration did not know of the fixed penalty concerned or of any fixed penalty notice or notice to owner relating to that penalty until he received notice of the registration, or
  - (b) that he was not the owner of the vehicle at the time of the alleged offence of which particulars are given in the relevant notice to owner and that he has a reasonable excuse for failing to comply with that notice, or
  - (c) that he gave notice requesting a hearing in respect of that offence as permitted by the relevant notice to owner before the end of the period allowed for response to that notice.
- (3) In any case within subsection (2)(a) or (b) above—
- (a) the relevant notice to owner,
  - (b) the registration, and

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- (c) any proceedings taken before the declaration was served for enforcing payment of the sum registered,

shall be void but without prejudice, in a case within subsection (2)(a) above, to the service of a further notice to owner under section 63 of this Act on the person making the declaration.

This subsection applies whether or not the relevant notice to owner was duly served in accordance with that section on the person making the declaration.

- (4) In any case within subsection (2)(c) above—

- (a) no proceedings shall be taken, after the statutory declaration is served until the end of the period of twenty-one days following the date of that declaration, for enforcing payment of the sum registered, and
- (b) where before the end of that period a notice is served by or on behalf of [<sup>F96</sup>the relevant person] on the person making the declaration asking him to provide a new statutory statement of ownership to [<sup>F96</sup>the relevant person] before the end of the period of twenty-one days from the date on which the notice is served, no such proceedings shall be taken until the end of the period allowed for response to that notice.

- [<sup>F97</sup>(4A) In subsection (4) above “the relevant person” means—

- (a) if the fixed penalty notice concerned was fixed by a constable, the fixed penalty clerk, and
- (b) if it was fixed by a vehicle examiner, the Secretary of State.]

- (5) Where in any case within subsection (2)(c) above—

- (a) no notice is served <sup>F98</sup>... in accordance with subsection (4) above, or
- (b) <sup>F99</sup>... a notice is so served and the person making the declaration provides a new statutory statement of ownership in accordance with the notice,

then—

- (i) the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void, and
- (ii) the case shall be treated after the time mentioned in subsection (6) below as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.

- (6) The time referred to in subsection (5) above is—

- (a) in a case within paragraph (a) of that subsection, the end of the period of twenty-one days following the date of the statutory declaration,
- (b) in a case within paragraph (b) of that subsection, the time when the statement is provided.

- (7) In any case where notice is served <sup>F100</sup>... in accordance with subsection (4) above, [<sup>F101</sup>the person by whom it is served] must cause the [<sup>F95</sup>proper officer] of the relevant court to be notified of that fact immediately on service of the notice.

- (8) References in this section to the relevant notice to owner are to the notice to owner relating to the fixed penalty concerned.

#### Textual Amendments

**F95** Words in s. 73(1)(b)(7) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 151** (with s. 107, **Sch. 14 para. 7(2)**); S.I. 2001/916, **art. 2(a)(ii)** (with **Sch. 2 para. 2**)

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- F96** Words in s. 73(4) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 14(2)**; S.I. 2008/3164, art. 3(b)
- F97** S. 73(4A) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 14(3)**; S.I. 2008/3164, art. 3(b)
- F98** Words in s. 73(5) repealed (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 14(4)(a), **Sch. 7(2)**; S.I. 2008/3164, art. 3(b)
- F99** Word in s. 73(5) repealed (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 14(4)(b), **Sch. 7(2)**; S.I. 2008/3164, art. 3(b)
- F100** Words in s. 73(7) repealed (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 14(5)(a), **Sch. 7(2)**; S.I. 2008/3164, art. 3(b)
- F101** Words in s. 73(7) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 14(5)(b)**; S.I. 2008/3164, art. 3(b)

## 74 Provisions supplementary to sections 72 and 73.

- (1) In any case within section 72(2)(b) or 73(2) of this Act—
- (a) section 127(1) of the <sup>M4</sup>Magistrates' Courts Act 1980 (limitation of time), and
  - (b) section 331(1) of the <sup>M5</sup>Criminal Procedure (Scotland) Act 1975 (statutory offences time limit),
- shall have effect as if for the reference to the time when the offence was committed or (as the case may be) the time when the contravention occurred there were substituted a reference to the date of the statutory declaration made for the purposes of section 72(1) or, as the case may be, 73(1).
- (2) Where, on the application of a person who has received notice of the registration of a sum under section 71 of this Act for enforcement against him as a fine, it appears to the relevant court (which for this purpose may be composed of a single justice) that it was not reasonable to expect him to serve, within twenty-one days of the date on which he received the notice, a statutory declaration to the effect mentioned in section 72(2) or, as the case may be, 73(2) of this Act, the court may accept service of such a declaration by that person after that period has expired.
- (3) A statutory declaration accepted under subsection (2) above shall be taken to have been served as required by section 72(1) or, as the case may be, section 73(1) of this Act.
- (4) For the purposes of sections 72(1) and 73(1) of this Act, a statutory declaration shall be taken to be duly served on the [<sup>F102</sup>proper officer] of the relevant court if it is delivered to him, left at his office, or sent in a registered letter or by the recorded delivery service addressed to him at his office.
- (5) In sections 72, 73 and this section—
- (a) references to the relevant court are—
    - (i) in the case of a sum registered under section 71 of this Act for enforcement as a fine in a [<sup>F103</sup>local justice] area in England and Wales, references to any magistrates' court acting [<sup>F104</sup>in that area], and
    - (ii) in the case of a sum registered under that section for enforcement as a fine by a court of summary jurisdiction in Scotland, references to that court,
  - [<sup>F105</sup>(b) references to the proper officer of the relevant court are—
    - (i) in the case of a magistrates' court, references to the [<sup>F106</sup>designated officer] for that court, and



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- (ii) in the case of a court of summary jurisdiction in Scotland, references to the clerk of the court, and]
- (c) references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum.
- (6) For the purposes of sections 72, 73 and this section, a person shall be taken to receive notice of the registration of a sum under section 71 of this Act for enforcement against him as a fine when he receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.
- (7) Nothing in the provisions of sections 72 or 73 or this section is to be read as prejudicing any rights a person may have apart from those provisions by virtue of the invalidity of any action purportedly taken in pursuance of this Part of this Act which is not in fact authorised by this Part of this Act in the circumstances of the case; and, accordingly, references in those provisions to the registration of any sum or to any other action taken under or by virtue of any provision of this Part of this Act are not to be read as implying that the registration or action was validly made or taken in accordance with that provision.

#### Textual Amendments

- F102** Words in s. 74(4) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 152(2)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F103** Words in s. 74(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 318(a)**; S.I. 2005/910, **art. 3(y)**
- F104** Words in s. 74(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 318(b)**; S.I. 2005/910, **art. 3(y)**
- F105** S. 74(5)(b) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 152(3)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F106** Words in s. 74(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 318(c)**; S.I. 2005/910, **art. 3(y)**

#### Marginal Citations

- M4** 1980 c. 43.  
**M5** 1975 c. 21.

*<sup>F107</sup>[Conditional offer of fixed penalty]*

#### Textual Amendments

- F107** Ss. 75-77 substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s.34**; S.I. 1992/1286, **art. 2**, Sch. 2, Sch.

#### <sup>F108</sup> 75 Issue of conditional offer.

- (1) Where in England and Wales—
- (a) a constable has reason to believe that a fixed penalty offence has been committed, and

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(b) no fixed penalty notice in respect of the offence has been given under section 54 of this Act or fixed to a vehicle under section 62 of this Act, a notice under this section may be sent to the alleged offender by or on behalf of the chief officer of police [<sup>F109</sup>or, if the constable is a member of the British Transport Police, by or on behalf of the chief constable of the British Transport Police.]

[ Where in England and Wales—

<sup>F110</sup>(1A) (a) a vehicle examiner has reason to believe that a fixed penalty offence has been committed, and  
(b) no fixed penalty notice in respect of the offence has been given under section 54 of this Act or fixed to a vehicle under section 62 of this Act, a notice under this section may be sent to the alleged offender by the Secretary of State.]

(2) Where in Scotland a procurator fiscal receives a report that—

- (a) an offence specified in Schedule 3 to this Act has been committed,
- (b) an offence specified in Schedule 5 to this Act has been committed,
- (c) an offence referred to in paragraph (a) or (b) above has been committed, being an offence of causing or permitting a vehicle to be used by another person in contravention of any provision made or any restriction or prohibition imposed by or under any enactment, or
- (d) an offence of aiding, abetting, counselling, procuring or inciting the commission of an offence referred to in this subsection, has been committed,

he may send a notice under this section to the alleged offender.

(3) Where in Scotland, a constable—

- (a) on any occasion has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence, he may hand to that person,

[ on any occasion has reason to believe that a person he finds has, within the period of 28 days before the day of that occasion, committed a Community drivers' hours offence, he may hand to that person,]

- (b) in any case has reason to believe that a fixed penalty offence has been committed, he or another person authorised in that respect by the chief constable may send to the alleged offender,

a notice under this section.

[ Where a constable is a constable of the British Transport Police Force subsection (3) <sup>F112</sup>(3A) shall have effect as if the reference to the chief constable were a reference to the chief constable of that force.]

[ Where in Scotland a vehicle examiner—

<sup>F113</sup>(3B) (a) on any occasion has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence, he may hand to that person,

[ on any occasion has reason to believe that a person he finds has, within the period of 28 days before the day of that occasion, committed a Community drivers' hours offence, he may hand to that person,]

- (b) in any case has reason to believe that a fixed penalty offence has been committed, he or another person authorised in that respect by the Secretary of State may send to the alleged offender,

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a notice under this section.]

<sup>F115</sup>(3C) [ A constable or vehicle examiner may not hand a person a conditional offer under subsection (3) or (3B) for a Community drivers’ hours offence where the constable or vehicle examiner has reason to believe that—

- (a) a fixed penalty notice has already been given to the person under section 54 of this Act in relation to the offence;
- (b) a conditional offer has already been issued to the person under this section in relation to the offence;
- (c) proceedings have already been initiated against the person for the offence; or
- (d) any other penalty has already been imposed on, or other proceedings have already been initiated against, the person in respect of the relevant breach in Northern Ireland, another member State or a contracting third country.

(3D) In subsection (3C)(d) “relevant breach” means the breach of the applicable Community rules which constitutes the Community drivers’ hours offence concerned.]

(4) Subsections (2) [<sup>F116</sup>to (3B)] above shall not apply where a fixed penalty notice has been fixed to a vehicle under section 62 of this Act.

(5) A notice under this section is referred to in this section and sections 76 [<sup>F117</sup>and 77A] as a “conditional offer”.

(6) Where a [<sup>F118</sup>conditional offer is issued by a person under subsection (1), (2) or (3) above], he must notify the [<sup>F119</sup>designated officer], or in Scotland clerk of court, specified in it of its issue and its terms; and [<sup>F120</sup>he] is referred to in this section and sections 76 [<sup>F117</sup>and 77A] as “the fixed penalty clerk”.

(7) A conditional offer must—

- (a) give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence,
- (b) state the amount of the fixed penalty for that offence, and
- (c) state that proceedings against the alleged offender cannot be commenced in respect of that offence until the end of the period of twenty-eight days following the date on which the conditional offer was issued or such longer period as may be specified in the conditional offer.

<sup>F121</sup>(8) .....

<sup>F122</sup>(8A) [ A conditional offer sent to an alleged offender <sup>F123</sup>... must indicate that if the following conditions are fulfilled, that is—

- (a) within the period of twenty-eight days following the date on which the offer was issued, or such longer period as may be specified in the offer, the alleged offender
  - [<sup>F124</sup>(i) makes payment of the fixed penalty to the appropriate person, and
  - (ii) where he is the holder of a licence and the offence to which the offer relates is an offence involving obligatory endorsement, at the same time delivers his licence to the appropriate person, and]
- (b) the appropriate person is satisfied, on accessing information held on the driving record of the alleged offender, that if he were convicted of the offence, he would not be liable to be disqualified under section 35 of this Act,

any liability to conviction of the offence shall be discharged.]

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(9) For the purposes of the [F125 conditions] set out in subsection F126 ... [F127(8A)(b)] above, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I of Schedule 2 to this Act, that the number of penalty points to be attributed to the offence would be the lowest in the range.

(10) The Secretary of State may by order provide for offences to become or (as the case may be) to cease to be offences in respect of which a conditional offer may be sent under subsection (2)(b) above, and may make such modifications of the provisions of this Part of this Act as appear to him to be necessary for the purpose.

(11) An offence committed by aiding, abetting, counselling, procuring or inciting the commission of an offence which is an offence involving obligatory endorsement is itself an offence involving obligatory endorsement for the purposes of the application of this Part of this Act in Scotland.

[ In this section and sections 76 [F129 and 77A] of this Act “the appropriate person”  
F128(11A) means—

- (a) where the conditional offer was issued under subsection (1), (2) or (3) above, the fixed penalty clerk, and
- (b) where the conditional offer was issued under subsection (1A) or (3B) above, the Secretary of State.]

F130(12) . . . . .]

#### Textual Amendments

- F108** Ss. 75-77 substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 34; S.I. 1992/1286, art. 2, Sch.
- F109** Words in s. 75((1) inserted (1.10.2002) by 2002 c. 30, s. 76(3); S.I. 2002/2306 art. 2(d)(vii)
- F110** S. 75(1A) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 15(2); S.I. 2008/3164, art. 3(b)
- F111** S. 75(3)(aa) inserted (31.1.2018) by The Community Drivers Hours Offences (Enforcement) Regulations 2018 (S.I. 2018/24), regs. 1, 4(2) (with reg. 11)
- F112** S. 75(3A) inserted (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), s. 69(2); S.I. 2004/1572, art. 3(zz)
- F113** S. 75(3B) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 15(3); S.I. 2008/3164, art. 3(b)
- F114** S. 75(3B)(aa) inserted (31.1.2018) by The Community Drivers Hours Offences (Enforcement) Regulations 2018 (S.I. 2018/24), regs. 1, 4(3) (with reg. 11)
- F115** S. 75(3C)(3D) inserted (31.1.2018) by The Community Drivers Hours Offences (Enforcement) Regulations 2018 (S.I. 2018/24), regs. 1, 4(4) (with reg. 11)
- F116** Words in s. 75(4) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 15(4); S.I. 2008/3164, art. 3(b)
- F117** Words in s. 75(5)(6) substituted (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 51(2); S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F118** Words in s. 75(6) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 15(5); S.I. 2008/3164, art. 3(b)
- F119** Words in s. 75(6) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 319; S.I. 2005/910, art. 3(y)
- F120** Words in s. 75(6) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 para. 153(a)(b) (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)
- F121** S. 75(8) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 51(3), Sch. 7(4); S.I. 2015/560, art. 3 (with arts. 4-9)

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- F122** S. 75(8A) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 24(5)**; S.I. 2008/3164, art. 4(b)
- F123** Words in s. 75(8A) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 51(4)(a), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F124** Words in s. 75(8A)(a) substituted (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 3 para. 51(4)(b)**; S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F125** Word in s. 75(9) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 24(6)(a)**; S.I. 2008/3164, art. 4(b)
- F126** Words in s. 75(9) omitted (8.6.2015) by virtue of The Road Safety Act 2006 (Consequential Amendments) Order 2015 (S.I. 2015/583), art. 1(1), **Sch. 2 para. 3(d)**
- F127** Words in s. 75(9) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 24(6)(b)**; S.I. 2008/3164, art. 4(b)
- F128** S. 75(11A) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 15(7)**; S.I. 2008/3164, art. 3(b)
- F129** Words in s. 75(11A) substituted (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 3 para. 51(5)**; S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F130** S. 75(12) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 51(6), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)

**<sup>F131</sup>76 Effect of offer and payment of penalty.**

(1) This section applies where a conditional offer has been [<sup>F132</sup>issued] to a person under section 75 of this Act.

[<sup>F133</sup>2] Where the alleged offender makes payment of the fixed penalty in accordance with the conditional offer, no proceedings shall be brought against him for the offence to which the offer relates unless subsection (3) below applies.

(3) This subsection applies where—

- (a) it appears to the appropriate person, on <sup>F134</sup>... [<sup>F135</sup>accessing information held on [<sup>F136</sup>the alleged offender's] driving record], that the alleged offender would be liable to be disqualified under section 35 of this Act if he were convicted of the offence to which the conditional offer relates,
- (b) the appropriate person returns the payment to the alleged offender together with [<sup>F137</sup>(where he is the holder of a licence)] his licence <sup>F138</sup>..., and
- (c) where the appropriate person is not the Secretary of State, the appropriate person gives notice that he has done so to the person required to be notified.

(4) Where the requirements specified in the conditional offer in accordance with subparagraphs (i) and (ii) of section [<sup>F139</sup>75(8A)(a)] of this Act have not been fulfilled, no proceedings shall be brought against the alleged offender for the offence to which the offer relates—

- (a) until the end of the period of twenty-eight days following the date on which the conditional offer was made, or such longer period as may be specified in the offer, and
- (b) where the appropriate person is not the Secretary of State, unless the appropriate person notifies the person required to be notified that proceedings may be brought by virtue of this subsection.

(5) In this section and section [<sup>F140</sup>77A] of this Act “ the person required to be notified ” means—

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- (a) if the conditional offer was issued under subsection (1) of section 75 of this Act, the chief officer of police,
  - (b) if it was issued under subsection (2) of that section, the procurator fiscal, and
  - (c) if it was issued under subsection (3) of that section, the chief constable or (as the case may be) the chief constable of the British Transport Police Force.]
- (6) In determining for the purposes of subsection [F141(3)(a)] above whether a person convicted of an offence would be liable to disqualification under section 35, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I of Schedule 2 to this Act, that the number of penalty points to be attributed to the offence would be the lowest in the range.
- (7) In any proceedings a certificate that by a date specified in the certificate payment of a fixed penalty was or was not received by [F142the appropriate person] shall, if the certificate purports to be signed by [F142the appropriate person], be evidence, or in Scotland sufficient evidence, of the facts stated.
- F143(8) .....
- (9) In Scotland, the Secretary of State may by regulations vary the provisions of subsection [F144(5)(b) or (c)] above.

#### Textual Amendments

- F131** Ss. 75-77 substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1) , s. 34 ; S.I. 1992/1286 , art. 2 , Sch.
- F132** Word in s. 76(1) substituted (31.3.2009) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 1 para. 16(2) ; S.I. 2008/3164 , art. 3(b)
- F133** S. 76(2)-(5) substituted (31.3.2009) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 1 para. 16(3) ; S.I. 2008/3164 , art. 3(b)
- F134** Words in s. 76(3)(a) repealed (8.6.2015) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 3 para. 52(2)(a) , Sch. 7(4) ; S.I. 2015/560 , art. 3 (with arts. 4-9)
- F135** Words in s. 76(3)(a) inserted (1.4.2009) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 2 para. 25(2)(a) ; S.I. 2008/3164 , art. 4(b)
- F136** Words in s. 76(3)(a) substituted (8.6.2015) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 3 para. 52(2)(a) ; S.I. 2015/560 , art. 3(a) (with arts. 4-9)
- F137** Words in s. 76(3)(b) inserted (1.4.2009) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 2 para. 25(2)(b) ; S.I. 2008/3164 , art. 4(b)
- F138** Words in s. 76(3)(b) repealed (8.6.2015) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 3 para. 52(2)(b) , Sch. 7(4) ; S.I. 2015/560 , art. 3 (with arts. 4-9)
- F139** Word in s. 76(4) substituted (8.6.2015) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 3 para. 52(3) ; S.I. 2015/560 , art. 3(a) (with arts. 4-9)
- F140** Word in s. 76(5) substituted (8.6.2015) by The Road Safety Act 2006 (Consequential Amendments) Order 2015 (S.I. 2015/583) , art. 1(1) , Sch. 2 para. 3(e)
- F141** Word in s. 76(6) substituted (31.3.2009) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 1 para. 16(4) ; S.I. 2008/3164 , art. 3(b)
- F142** Words in s. 76(7) substituted (31.3.2009) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 1 para. 16(5) ; S.I. 2008/3164 , art. 3(b)
- F143** S. 76(8) repealed (8.6.2015) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 3 para. 52(4) , Sch. 7(4) ; S.I. 2015/560 , art. 3 (with arts. 4-9)
- F144** Words in s. 76(9) substituted (31.3.2009) by Road Safety Act 2006 (c. 49) , s. 61(1)(10) , Sch. 1 para. 16(7) ; S.I. 2008/3164 , art. 3(b)

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**<sup>F146</sup>77 Endorsement [<sup>F145</sup>of counterparts] where penalty paid.**

.....

**Textual Amendments**

**F145** Words in s. 77 heading inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 26(3)**; S.I. 2008/3164, art. 4(b)

**F146** S. 77 repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 53, **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)

**<sup>F147</sup>77A Endorsement of driving records where penalty paid**

- (1) Where—
  - (a) in pursuance of a conditional offer issued under subsection (1), (2) or (3) of section 75 of this Act a person <sup>F148</sup>... (referred to in this section as the “alleged offender”) makes payment of the fixed penalty to the fixed penalty clerk [<sup>F149</sup>and (if he is the holder of a licence) delivers his licence to the fixed penalty clerk], and
  - (b) proceedings against the alleged offender for the offence to which the conditional offer relates are excluded by section 76 of this Act,  
the fixed penalty clerk must forthwith send to the Secretary of State notice of the relevant particulars to be endorsed on the alleged offender's driving record [<sup>F150</sup>together with any licence delivered under paragraph (a) above].
- (2) The Secretary of State must endorse the relevant particulars on a person's driving record [<sup>F151</sup>and return any licence delivered to him under this section to the alleged offender]—
  - (a) on receiving notice under subsection (1) above, or
  - (b) if, in pursuance of a conditional offer issued under subsection (1A) or (3B) of section 75 of this Act, a person <sup>F152</sup>... (also referred to in this section as the “alleged offender”) makes payment of the fixed penalty to him [<sup>F153</sup>and (if he is the holder of a licence) delivers his licence to him,] and proceedings against the alleged offender are excluded by section 76 of this Act.
- (3) Where in Scotland the appropriate person is the fixed penalty clerk and it appears to him that there is an error in an endorsement made by virtue of this section on a person's driving record, he may send to the Secretary of State notice of the error.
- (4) Subject to subsection (5) below, where a cheque tendered in payment is subsequently dishonoured—
  - (a) any endorsement made by the Secretary of State under subsection (2) above remains effective notwithstanding that the alleged offender is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and
  - (b) unless the appropriate person is the Secretary of State, the appropriate person must upon expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the person required to be notified that no payment has been made.
- (5) When proceedings are brought against an alleged offender where subsection (4) above applies, the court—

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- (a) must order the removal of the fixed penalty endorsement from the driving record of the alleged offender,
  - (b) may, on finding the alleged offender guilty, make any competent order of endorsement or disqualification and pass any competent sentence, and
  - (c) must send to the Secretary of State notice of any order made under paragraph (a) or (b) above.
- (6) On receiving notice under subsection (3) above, the Secretary of State may correct the error in the endorsement on the driving record; and any endorsement corrected shall be treated for all purposes as if it had been correctly made on receipt of the fixed penalty.
- (7) On receiving a notice under subsection (5)(c) above, the Secretary of State must make any necessary adjustments to the endorsements on the alleged offender's driving record.
- (8) The references in subsection (1) and (2) above to the relevant particulars are to—
- (a) particulars of the offence, including the date when it was committed, and
  - (b) the number of penalty points to be attributed to the offence.
- (9) Where a person's driving record is endorsed under this section he shall be treated for the purposes of sections 13(4), 28, 29 and 45A of this Act and of the Rehabilitation of Offenders Act 1974 as if—
- (a) he had been convicted of the offence,
  - (b) the endorsement had been made in pursuance of an order made on his conviction by a court under section 44 of this Act, and
  - (c) the particulars of the offence endorsed by virtue of subsection (8)(a) above were particulars of his conviction of that offence.
- (10) In relation to any endorsement of a person's driving record under this section, the references in section 13(4) of this Act to any order made on a person's conviction are to be read as references to the endorsement itself.]

#### Textual Amendments

- F147** S. 77A inserted (1.4.2009) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), **Sch. 2 para. 27**; S.I. 2008/3164, art. 4(b)
- F148** Words in s. 77A(1) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), Sch. 3 para. 54(2)(a), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F149** Words in s. 77A(1) inserted (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), **Sch. 3 para. 54(2)(b)**; S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F150** Words in s. 77A(1) inserted (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), **Sch. 3 para. 54(2)(c)**; S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F151** Words in s. 77A(2) inserted (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), **Sch. 3 para. 54(3)(a)**; S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F152** Words in s. 77A(2) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), Sch. 3 para. 54(3)(b), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F153** Words in s. 77A(2) inserted (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), **Sch. 3 para. 54(3)(c)**; S.I. 2015/560, art. 3(a) (with arts. 4-9)



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### *Proceedings in fixed penalty cases*

#### **78 General restriction on proceedings.**

- (1) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates until the end of the suspended enforcement period.
- (2) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates if the fixed penalty is paid in accordance with this Part of this Act before the end of the suspended enforcement period.

#### **79 Statements by constables.**

- (1) In any proceedings a certificate that a copy of a statement by a constable [<sup>F154</sup>or vehicle examiner] with respect to the alleged offence (referred to in this section as a “[<sup>F155</sup>relevant] witness statement”) was included in or given with a fixed penalty notice or a notice under section [<sup>F156</sup>54(5)] of this Act given to the accused on a date specified in the certificate shall, if the certificate purports to be signed by the [<sup>F157</sup>... person who gave the accused the notice, be evidence of service of a copy of that statement by delivery to the accused on that date.
- (2) In any proceedings a certificate that a copy of a [<sup>F158</sup>relevant] witness statement was included in or served with a notice to owner served on the accused in the manner and on a date specified in the certificate shall, if the certificate purports to be signed by any person employed [<sup>F159</sup>as a civilian police employee][<sup>F160</sup>, or by a police volunteer designated under section 38 of the Police Reform Act 2002,] for the police area in which the offence to which the proceedings relate is alleged to have been committed [<sup>F161</sup>or on behalf of the Secretary of State], be evidence of service in the manner and on the date so specified both of a copy of that statement and of the notice to owner.
- (3) Any address specified in any such certificate as is mentioned in subsection (2) above as being the address at which service of the notice to owner was effected shall be taken for the purposes of any proceedings in which the certificate is tendered in evidence to be the accused’s proper address, unless the contrary is proved.
- (4) Where a copy of a [<sup>F162</sup>relevant] witness statement is included in or served with a notice to owner served in any manner in which the notice is authorised to be served under this Part of this Act, the statement shall be treated as duly served for the purposes of section 9 of the <sup>M6</sup>Criminal Justice Act 1967 (proof by written statement) notwithstanding that the manner of service is not authorised by [<sup>F163</sup>Criminal Procedure Rules].
- (5) In relation to any proceedings in which service of a [<sup>F162</sup>relevant] witness statement is proved by certificate under this section—
  - (a) that service shall be taken for the purposes of subsection (2)(c) of that section (copy of statement to be tendered in evidence to be served before hearing on other parties to the proceedings by or on behalf of the party proposing to tender it) to have been effected by or on behalf of the prosecutor, and
  - (b) subsection (2)(d) of that section (time for objection) shall have effect with the substitution, for the reference to seven days from the service of the copy of the statement, of a reference to seven days from the relevant date.

[<sup>F164</sup>(5A) For the purposes of subsection (2), a person is employed as a civilian police employee for a police area if—

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- (a) in the case of a police area listed in Schedule 1 to the Police Act 1996, the person is a member of the civilian staff of the police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011) maintained for that area;
  - (b) in the case of the metropolitan police district, the person is a member of the civilian staff of the metropolitan police force (within the meaning of that Part of that Act);
  - (c) in the case of the City of London, the person is employed by the Common Council of the City of London in its capacity as police authority.]
- (6) In subsection (5)(b) above “relevant date” means—
- (a) where the accused gives notice requesting a hearing in respect of the offence in accordance with any provision of this Part of this Act, the date on which he gives that notice, and
  - (b) where a notice in respect of the offence was given to the accused under section [F<sup>165</sup>54(5)] of this Act but no fixed penalty notice is given in respect of it, the last day for [F<sup>166</sup>delivery of the notice].
- (7) This section does not extend to Scotland.

#### Textual Amendments

- F154** Words in s. 79(1) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 18(2)(a)**; S.I. 2008/3164, art. 3(b)
- F155** Word in s. 79(1) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 18(2)(b)**; S.I. 2008/3164, art. 3(b)
- F156** Word in s. 79(1) substituted (8.6.2015) by The Road Safety Act 2006 (Consequential Amendments) Order 2015 (S.I. 2015/583), art. 1(1), **Sch. 2 para. 3(f)(i)**
- F157** Words in s. 79(1) repealed (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 18(2)(c), **Sch. 7(2)**; S.I. 2008/3164, art. 3(b)
- F158** Word in s. 79(2) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 18(3)(a)**; S.I. 2008/3164, art. 3(b)
- F159** Words in s. 79(2) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 198(2)**; S.I. 2011/3019, art. 3, Sch. 1
- F160** Words in s. 79(2) inserted (E.W.) (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 12 para. 9**
- F161** Words in s. 79(2) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 18(3)(b)**; S.I. 2008/3164, art. 3(b)
- F162** Word in s. 79(4)(5) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 18(4)**; S.I. 2008/3164, art. 3(b)
- F163** Words in s. 79(4) substituted (26.5.2015) by Deregulation Act 2015 (c. 20), **ss. 80(6)(b)**, 115(7); S.I. 2015/994, art. 6(m)
- F164** S. 79(5A) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 198(3)**; S.I. 2011/3019, art. 3, Sch. 1
- F165** Word in s. 79(6)(b) substituted (8.6.2015) by The Road Safety Act 2006 (Consequential Amendments) Order 2015 (S.I. 2015/583), art. 1(1), **Sch. 2 para. 3(f)(ii)**
- F166** Words in s. 79(6) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 18(5)**; S.I. 2008/3164, art. 3(b)

#### Marginal Citations

- M6** 1967 c. 80.

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**Status:** Point in time view as at 19/07/2018. This version of this part contains provisions that are prospective.  
**Changes to legislation:** Road Traffic Offenders Act 1988, Part III is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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## 80 Certificates about payment.

In any proceedings a certificate—

- (a) that payment of a fixed penalty was or was not received, by a date specified in the certificate, by the [F167 person to whom it was required to be paid], or
- (b) that a letter containing an amount sent by post in payment of a fixed penalty was marked as posted on a date so specified,

shall, if the certificate purports to be signed by the [F167 person to whom it was required to be paid], be evidence (and, in Scotland, sufficient evidence) of the facts stated.

### Textual Amendments

F167 Words in s. 80 substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 19; S.I. 2008/3164, art. 3(b)

## 81 Documents signed by the accused.

(1) Where—

- (a) any person is charged with a fixed penalty offence, and
- (b) the prosecutor produces to the court a document to which this subsection applies purporting to have been signed by the accused,

the document shall be presumed, unless the contrary is proved, to have been signed by the accused and shall be evidence (and, in Scotland, sufficient evidence) in the proceedings of any facts stated in it tending to show that the accused was the owner, the hirer or the driver of the vehicle concerned at a particular time.

(2) Subsection (1) above applies to any document purporting to be—

- (a) a notice requesting a hearing in respect of the offence charged given in accordance with a fixed penalty notice relating to that offence, or
- (b) a statutory statement of any description defined in Schedule 4 to this Act or a copy of a statement of liability within the meaning of section 66 of this Act provided in response to a notice to owner.

### Miscellaneous

## 82 Accounting for fixed penalties: England and Wales.

(1) In England and Wales, sums paid [F168 to the fixed penalty clerk] by way of fixed penalty for an offence shall be treated for the purposes of [F169 section 38 of the Courts Act 2003 (application of receipts of designated officers)] as if they were fines imposed on summary conviction for that offence.

F170(2) .....

F170(2A) .....

F170(3) .....

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#### Textual Amendments

- F168** Words in s. 82(1) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 20**; S.I. 2008/3164, art. 3(b)
- F169** Words in s. 82(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 320(2)**; S.I. 2005/910, art. 3(y)
- F170** S. 82(2)(2A)(3) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 320(3), **Sch. 10**; S.I. 2005/910, art. 3(y)

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

- C8** S. 82 modified (*temp.*) (1.4.1995) by S.I. 1995/685, **reg. 6(2)(b)**  
 S. 82 modified (19.6.1997) by 1997 c. 25, s. 73(1), 74, **Sch. 4 Pt. II**, para. 7(2)(d)(i)
- C9** S. 82(1)(2): Functions of the Secretary of State transferred to the Lord Chancellor (1.4.1992) by S.I. 1992/709, art. 2(1), **Sch. 1**

### 83 Powers of court [<sup>F171</sup>in cases of deception].

<sup>F172</sup>(1) .....

[<sup>F173</sup>(1A) This section <sup>F174</sup>... applies where—

- (a) particulars are endorsed on a person's driving record under section 57A of this Act because the fixed penalty clerk or the Secretary of State is deceived as to whether endorsement under that section is excluded by section 61A(2) of this Act by virtue of the fact that the person to whom the fixed penalty notice was given would be liable to be disqualified under section 35 of this Act if he were convicted of the offence, or
- (b) particulars are endorsed on a person's driving record under section 77A of this Act because the appropriate person or court is deceived as to whether proceedings against the person are excluded by section 76 of this Act by virtue of the fact that the person to whom the conditional offer is issued would be liable to be disqualified under section 35 of this Act if he were convicted of the offence.]

(2) If—

- (a) the deception constituted or was due to an offence committed by the [<sup>F175</sup>person to whom the fixed penalty notice was given or conditional offer was issued], and
- (b) [<sup>F176</sup>he] is convicted of that offence,

the court by or before which he is convicted shall have the same powers and duties as it would have had if he had also been convicted by or before it of the offence of which particulars were endorsed under section <sup>F177</sup>... [<sup>F178</sup>57A] or, as the case may be, <sup>F179</sup>... [<sup>F180</sup>77A] of this Act.

#### Textual Amendments

- F171** Words in s. 83 heading substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 21(3)**; S.I. 2008/3164, art. 3(b)
- F172** S. 83(1) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 55(2), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F173** S. 83(1A) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 28(2)**; S.I. 2008/3164, art. 4(b)

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- F174** Word in s. 83(1A) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 55(3), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F175** Words in s. 83(2)(a) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 28(3)(a)**; S.I. 2008/3164, art. 4(b)
- F176** Word in s. 83(2)(b) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 28(3)(b)**; S.I. 2008/3164, art. 4(b)
- F177** Words in s. 83(2) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 55(4) (a), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F178** Words in s. 83(2) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 28(3)(c)**; S.I. 2008/3164, art. 4(b)
- F179** Words in s. 83(2) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 55(4) (b), **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F180** Words in s. 83(2) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 28(3)(d)**; S.I. 2008/3164, art. 4(b)

## 84 Regulations.

The Secretary of State may by regulations make provision as to any matter incidental to the operation of this Part of this Act, and in particular—

- (a) for prescribing any information or further information to be provided in any notice, notification, certificate or receipt under section 52(1), [<sup>F181</sup>54(5)], 56, 59(1), <sup>F182</sup>... 63(2), 70(2) and (3)(b), 73(4)(b), [<sup>F183</sup>75(1), (1A), (2), (3) or (3B) or 76(3)(c) or (4)(b)] of this Act or in any official form for a statutory statement mentioned in Schedule 4 to, or a statement under section 66(2) of, this Act, [<sup>F184</sup>and
- (b) the amount of the penalty stated in the offer is less than the fixed penalty applicable in the circumstances,]

### Textual Amendments

- F181** Word in s. 84(1)(a) substituted (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 3 para. 56**; S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F182** Words in s. 84(a) repealed (8.11.2006) by Road Safety Act 2006 (c. 49), s. 61(9), **Sch. 7(19)**
- F183** Words in s. 84 substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 22**; S.I. 2008/3164, art. 3(b)
- F184** S. 84(b) and word substituted for s. 84(b)(c) (5.1.2009) by Road Safety Act 2006 (c. 49), **ss. 3(3)**, 61(1)(10) (with s. 61(3)); S.I. 2008/3164, art. 2(a)

## [<sup>F185</sup>84A Notices to Secretary of State

Any notice sent to the Secretary of State under this Part must be sent in such manner and to such address and contain such particulars as the Secretary of State may determine.]

### Textual Amendments

- F185** S. 84A inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 30**; S.I. 2008/3164, art. 4(b)

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## 85 Service of documents.

- (1) Subject to any requirement of this Part of this Act with respect to the manner in which a person may be provided with any such document, he may be provided with the following documents by post (but without prejudice to any other method of providing him with them), that is to say—
  - (a) any of the statutory statements mentioned in Schedule 4 to this Act, and
  - (b) any of the documents mentioned in section 66(2) of this Act.
- (2) Where a notice requesting a hearing in respect of an offence is permitted by a fixed penalty notice or notice to owner relating to that offence to be given by post, section 7 of the <sup>M7</sup>Interpretation Act 1978 (service of documents by post) shall apply as if that notice were permitted to be so given by this Act.
- (3) A notice to owner may be served on any person—
  - (a) by delivering it to him or by leaving it at his proper address, or
  - (b) by sending it to him by post,
 and where the person on whom such a notice is to be served is a body corporate it is duly served if it is served on the secretary or clerk of that body.
- (4) For the purposes of this Part of this Act and of section 7 of the <sup>M8</sup>Interpretation Act 1978 as it applies for the purposes of subsection (3) above the proper address of any person in relation to the service on him of a notice to owner is—
  - (a) in the case of the secretary or clerk of a body corporate, that of the registered or principal office of that body or the registered address of the person who is or was the registered keeper of the vehicle concerned at the time of service, and
  - (b) in any other case, his last known address at the time of service.
- (5) In subsection (4) above, “registered address”, in relation to the registered keeper of a vehicle, means the address recorded in the record kept under <sup>F186</sup>the Vehicle Excise and Registration Act 1994] with respect to that vehicle as being that person’s address.

### Textual Amendments

**F186** Words in s. 85(5) substituted (1.9.1994) by 1994 c. 22, s. 63, **Sch. 3 para. 25(1)** (with s. 57(4))

### Marginal Citations

**M7** 1978 c. 30.

**M8** 1978 c. 30.

## 86 Functions of traffic wardens.

- (1) An order under section 95(5) of the <sup>M9</sup>Road Traffic Regulation Act 1984 may not authorise the employment of a traffic warden to discharge any function under this Part of this Act in respect of an offence if the offence appears to the traffic warden to be an offence involving obligatory endorsement <sup>F187</sup>unless that offence was committed whilst the vehicle concerned was stationary.].
- (2) In so far as an order under that section authorises the employment of traffic wardens for the purposes of this Part of this Act, references in this Part of this Act to a constable or, as the case may be, to a constable in uniform include a traffic warden.

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#### Textual Amendments

**F187** Words in s. 86(1) added (1.10.1991) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, [Sch. 4 para. 106](#); [S.I. 1991/2054](#), art. 3, [Sch](#)

#### Marginal Citations

**M9** [1984 c. 27](#).

### 87 Guidance on application of Part III.

The Secretary of State must issue guidance to chief officers of police for police areas <sup>[**F188**]</sup>and to the chief constable of the British Transport Police]in respect of the operation of this Part of this Act with the objective so far as possible of working towards uniformity.

#### Textual Amendments

**F188** Words in s. 87 inserted (1.10.2002) by [2002 c. 30, s. 76](#); [S.I. 2002/2306](#), art. 2(d)(vii)

### 88 Procedure for regulations and orders.

- (1) Any power conferred by this Part of this Act on the Secretary of State to make any order or regulations shall be exercisable by statutory instrument.
- (2) Before making—
  - (a) an order under section 51, 53 or 75 of this Act, or
  - (b) regulations under section 84 of this Act,the Secretary of State must consult with such representative organisations as he thinks fit.
- (3) A statutory instrument containing regulations or an order under any provision of this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations under this Part of this Act may—
  - (a) make different provision for different cases, and
  - (b) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the regulations.

### 89 Interpretation.

- (1) In this Part of this Act—

<sup>[**F189**]</sup>“the applicable Community rules” means any directly applicable EU provision for the time being in force about the driving of road vehicles and includes the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970, as amended, as applied by Article 2(3) of the Community Drivers’ Hours Regulation,]

“authorised person” has the meaning given by section 54(9) of this Act,

<sup>[**F190**]</sup><sup>[**F191**]</sup>“British Transport Police” means the force of constables appointed under the British Transport Commission Act 1949 (c. xxix);]]

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[<sup>F192</sup> “chief constable” means, in Scotland in relation to any conditional offer, the chief constable [<sup>F193</sup>of the Police Service of Scotland] .]

“chief officer of police” (except in the definition of “authorised person”) means, in relation to any fixed penalty notice [<sup>F194</sup>, notice to owner or conditional offer], the chief officer of police for the police area in which the fixed penalty offence in question is alleged to have been committed,

[<sup>F195</sup>“the Community Drivers’ Hours Regulation” means Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15th March 2006 on the harmonisation of certain social legislation relating to road transport (and amending and repealing certain Council Regulations), as amended from time to time,]

[<sup>F195</sup>“contracting third country” means a country other than a member State which is a contracting party to—

(a) the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970, as amended; or

(b) the EEA agreement,]

“court of summary jurisdiction” has the same meaning as in [<sup>F196</sup>section 307(1) of the Criminal Procedure (Scotland) Act 1995],

“driver” except in section 62 of this Act means, in relation to an alleged fixed penalty offence, the person by whom, assuming the offence to have been committed, it was committed,

[<sup>F197</sup> . . .

“petty sessions area” has the same meaning as in the <sup>M10</sup>Magistrates’ Courts Act 1980, and

“proceedings”, except in relation to proceedings for enforcing payment of a sum registered under section 71 of this Act, means criminal proceedings.

[<sup>F198</sup>“vehicle examiner” means an examiner appointed under section 66A of the Road Traffic Act 1988.]

(2) In this Part of this Act—

- (a) references to a notice requesting a hearing in respect of an offence are references to a notice indicating that the person giving the notice wishes to contest liability for the offence or seeks a determination by a court with respect to the appropriate punishment for the offence,
- (b) references to an offence include an alleged offence, and
- (c) references to the person who is or was at any time the registered keeper of a vehicle are references to the person in whose name the vehicle is or was at that time registered under [<sup>F199</sup>the Vehicle Excise and Registration Act 1994].

[<sup>F200</sup>(3) For the purposes of this Part of this Act, a person commits a “Community drivers’ hours offence” if the person commits a fixed penalty offence under—

- (a) section 96(11A) of the Transport Act 1968 (permitted driving time and periods of duty);
- (b) section 98(4)(b) of the Transport Act 1968 (written records);
- (c) section 99C of the Transport Act 1968 (failure to comply with prohibition), where the prohibition is imposed under section 99A(1)(b)(ii); or
- (d) section 3(1) of the Road Traffic (Foreign Vehicles) Act 1972 (enforcement provisions) where the offence arises as a result of a contravention of the applicable Community rules.]



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### Textual Amendments

- F189** Words in s. 89(1) inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **5(2)(a)**
- F190** Definition in s. 89 ceases to have effect (1.7.2004) by virtue of [Railways and Transport Safety Act 2003 \(c. 20\)](#), **Sch. 5 para. 4**; S.I. 2004/1572, art. 3(jjj)
- F191** S. 89(1): Definition of British Transport Police inserted (1.10.2002) by 2002 c. 30, **s. 76(6)**; S.I. 2002/2306, **art. 2(d)(vii)**
- F192** Definition in s. 89(1) inserted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, **Sch. 4 para. 107(2)**; S.I. 1992/1286, art. 2, **Sch.**
- F193** Words in s. 89(1) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 23**
- F194** Words in s. 89(1) substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, **Sch. 4 para. 107(3)**; S.I. 1992/1286, art. 2, **Sch.**
- F195** Words in s. 89(1) inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **5(2)(b)**
- F196** S. 89(1): words in definition of "court of summary jurisdiction" substituted (1.4.1996) by 1995 c. 13, s. 5, **Sch. 4 para. 71(10)**
- F197** S. 89(1): Definition of "justices' clerk" repealed (1.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(7)** (with s. 107, **Sch. 14 paras. 7(2), 36(9)**); S.I. 2001/916, **art. 2(c)(ii)** (with **Sch. 2 para. 2**)
- F198** Definition in s. 89(1) inserted (31.3.2009) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), **Sch. 1 para. 23**; S.I. 2008/3164, art. 3(b)
- F199** Words in s. 89(2)(c) substituted (1.9.1994) by 1994 c. 22, s. 63, **Sch. 3 para. 25(1)**
- F200** S. 89(3) inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **5(3)**

### Marginal Citations

- M10** 1980 c. 43.

## 90 Index to Part III.

The expressions listed in the left hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part of this Act listed in the right-hand column in relation to those expressions.

[ <sup>F201</sup> The applicable Community rules	Section 89(1)]
Authorised person	Section 54(9)
[ <sup>F202</sup> Community drivers' hours offence	Section 89(3)]
[ <sup>F203</sup> The Community Drivers' Hours Regulation	Section 89(1)]
[ <sup>F204</sup> Contracting third country	Section 89(1)]
Conditional offer	[ <sup>F205</sup> 75(5)]
Fixed penalty	Section 53
Fixed penalty clerk	Section 69(4) [ <sup>F206</sup> and [ <sup>F207</sup> 75(6)]]
Fixed penalty notice	Section 52
Fixed penalty offence	Section 51

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Notice to owner	Sections 63(2) and 66(4)
Notice requesting a hearing in respect of an offence	Section 89(2)
Offence	Section 89(2)
Official form	Section 68(4)
Owner	Section 68(1)
Period allowed for response to a notice to owner	Section 63(5)
Proper address, in relation to the service of a notice to owner	Section 85(4)
Registered keeper	Section 89(2)
Statutory statement of facts	Part II of Schedule 4
Statutory statement of hiring	Part I of Schedule 4
Statutory statement of ownership	Part I of Schedule 4
Suspended enforcement period	Section 52(3)(a)
Time of the alleged offence	Section 63(3)

#### Textual Amendments

- F201** Words in s. 90 inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **6(2)**
- F202** Words in s. 90 inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **6(3)**
- F203** Words in s. 90 inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **6(4)**
- F204** Words in s. 90 inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **6(5)**
- F205** Words in s. 90 substituted (8.11.2006) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 58(5)(a)**, 61(9)
- F206** Words in s. 90 added (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, **Sch. 4 para. 108(b)**; [S.I. 1992/1286](#), **art. 2**, Sch.
- F207** Words in s. 90 substituted (8.11.2006) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 58(5)(b)**, 61(9)

**Status:**

Point in time view as at 19/07/2018. This version of this part contains provisions that are prospective.

**Changes to legislation:**

Road Traffic Offenders Act 1988, Part III is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.