



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART III

#### FIXED PENALTIES

##### *Giving notices to suspected offenders*

#### 54 Notices on-the-spot [<sup>F1</sup>etc.].

- (1) This section applies where [<sup>F2</sup>in England and Wales] on any occasion a constable in uniform [<sup>F3</sup>, or a vehicle examiner who produces his authority,] has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence.
- (2) Subject to [<sup>F4</sup>the following provisions of this section] , the constable [<sup>F5</sup>or vehicle examiner] may give him a fixed penalty notice in respect of the offence.
- (3) Where the offence appears to the constable [<sup>F6</sup>or vehicle examiner] to involve obligatory endorsement [<sup>F7</sup>, and the person is the holder of a licence,], the constable [<sup>F6</sup>or vehicle examiner] may only give him a fixed penalty notice under subsection (2) above in respect of the offence if—
  - (a) he produces his licence [<sup>F8</sup>and its counterpart] for inspection by the constable [<sup>F6</sup>or vehicle examiner],
  - (b) the constable [<sup>F6</sup>or vehicle examiner] is satisfied, on inspecting the licence [<sup>F8</sup>and its counterpart], that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence, and
  - (c) he surrenders his licence [<sup>F8</sup>and its counterpart] to the constable [<sup>F6</sup>or vehicle examiner] to be retained and dealt with in accordance with this Part of this Act.
- (4) Where—
  - (a) the offence appears to the constable [<sup>F9</sup>or vehicle examiner] to involve obligatory endorsement,
  - [<sup>F10</sup>(aa) the person concerned is the holder of a licence, and]

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- (b) [<sup>F11</sup>he] does not produce his licence [<sup>F12</sup>and its counterpart] for inspection by the constable [<sup>F9</sup>or vehicle examiner],

the constable [<sup>F9</sup>or vehicle examiner] may give him a notice stating that if [<sup>F13</sup>he delivers] the notice together with his licence [<sup>F14</sup>and its counterpart] in [<sup>F15</sup>accordance with subsection (4A) below] and the requirements of subsection (5)(a) and (b) below are met he will then be given a fixed penalty notice in respect of the offence.

[<sup>F16</sup>(4A) 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
- (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.]

- (5) If a person to whom a notice has been given under subsection (4) above [<sup>F17</sup>delivers] the notice together with his licence [<sup>F18</sup>and its counterpart] in [<sup>F19</sup>accordance with subsection (4A) above] and the following requirements are met, that is—

- (a) the [<sup>F20</sup>person to whom the notice under subsection (4) above is delivered] is satisfied, on inspecting the licence [<sup>F21</sup>and its counterpart], that he would not be liable to be disqualified under section 35 of this Act if he were convicted of the offence, and
- (b) [<sup>F22</sup>... his licence [<sup>F23</sup>and its counterpart][<sup>F24</sup>are delivered] to be retained and dealt with in accordance with this Part of this Act,

the [<sup>F20</sup>person to whom the notice under subsection (4) above is delivered] must give him a fixed penalty notice in respect of the offence to which the notice under subsection (4) above relates.

[<sup>F25</sup>(5A) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, and the person is not the holder of a licence, the constable or vehicle examiner may only give him a fixed penalty notice under subsection (2) above in respect of the offence if 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.

(5B) Subsection (5C) below applies where—

- (a) the offence appears to the constable or vehicle examiner to involve obligatory endorsement,
- (b) the person concerned is not the holder of a licence, and
- (c) 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.

(5C) Where this subsection applies, the constable or vehicle examiner may give the person a notice stating that if—

- (a) he delivers the notice in accordance with subsection (5D) below, and
- (b) the person to whom it 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,

he will then be given a fixed penalty notice in respect of the offence.

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(5D) 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
- (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.

(5E) If a person to whom a notice has been given under subsection (5C) above delivers the notice in accordance with subsection (5D) above, and the person to whom it 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, that person must give him a fixed penalty notice in respect of the offence to which the notice under subsection (5C) relates.]

(6) A notice under subsection (4) [<sup>F26</sup>or (5C)] 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 [<sup>F27</sup>and a counterpart of a licence] surrendered [<sup>F28</sup>or delivered] in accordance with this section must be sent to the fixed penalty clerk [<sup>F29</sup>if the fixed penalty notice was given by a constable or authorised person].

<sup>F30</sup>(8) . . . . .

(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 [<sup>F31</sup>or a person authorised for those purposes by or on behalf of the chief constable of the British Transport Police].

<sup>F32</sup>[(10) In determining for the purposes of [<sup>F33</sup>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.]

**Textual Amendments**

- F1** 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)
- F2** 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.**
- F3** 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)
- F4** 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)
- F5** 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)
- F6** Words in s. 54(3) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(4)**; S.I. 2008/3164, art. 3(b)
- F7** Words in s. 54(3) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 14(3)**; S.I. 2008/3164, art. 4(b)

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- F8** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 15(a)**
- F9** Words in s. 54(4) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(5)(a)**; S.I. 2008/3164, art. 3(b)
- F10** S. 54(4)(aa) substituted for word (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 14(4)(a)**; S.I. 2008/3164, art. 4(b)
- F11** Word in s. 54(4)(b) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 14(4)(b)**; S.I. 2008/3164, art. 4(b)
- F12** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 15(b)(i)**
- F13** Words in s. 54(4) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(5)(b)**; S.I. 2008/3164, art. 3(b)
- F14** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 15(b)(ii)**
- F15** Words in s. 54(4) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(5)(c)**; S.I. 2008/3164, art. 3(b)
- F16** S. 54(4A) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(6)**; S.I. 2008/3164, art. 3(b)
- F17** Word in s. 54(5) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(7)(a)**; S.I. 2008/3164, art. 3(b)
- F18** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 15(c)(i)**
- F19** Words in s. 54(5) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(7)(b)**; S.I. 2008/3164, art. 3(b)
- F20** Words in s. 54(5) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(7)(c)**; S.I. 2008/3164, art. 3(b)
- F21** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 15(c)(ii)**
- F22** Words in s. 54(5) repealed (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 3(7)(d), **Sch. 7(2)**; S.I. 2008/3164, art. 3(b)
- F23** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 15(c)(iii)**
- F24** Words in s. 54(5) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 3(7)(e)**; S.I. 2008/3164, art. 3(b)
- F25** S. 54(5A)-(5E) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), **ss. 9(4)**, 61(1)(8)(10) (with s. 61(3)); S.I. 2008/3164, art. 4(b)
- F26** Words in s. 54(6) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 14(5)**; S.I. 2008/3164, art. 4(b)
- F27** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 15(d)**
- F28** 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)
- F29** 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)
- F30** 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
- F31** Words in s. 54(9) inserted (1.10.2002) by 2002 c. 30, s. **76(2)**; S.I. 2002/2306, art. **2(d)(vii)**
- F32** 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.**
- F33** 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)

- C1** S. 54 extended (*prosp.*) by 2002 c. 30, ss. 41, 108(2)-(5), **Sch. 5 para. 1(2)(a)**
- C2** 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)**

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## 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
  - (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>F34</sup>person] to whom a person surrenders [<sup>F35</sup>or delivers] his licence [<sup>F36</sup>and its counterpart] on receiving a fixed penalty notice given to him under section 54 of this Act must issue a receipt for the licence [<sup>F36</sup>and its counterpart] under this section.
- (2) [<sup>F37</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>F38</sup>or delivered] his licence [<sup>F39</sup>and its counterpart] in those circumstances, issue a new receipt for [<sup>F40</sup>them].
- (3) A receipt issued under this section ceases to have effect—
  - (a) if issued [<sup>F41</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>F42</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>F43</sup>and its counterpart] to the licence holder.

### Textual Amendments

- F34** 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)
- F35** 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)
- F36** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 16(a)(i)(ii)**
- F37** 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)
- F38** 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)
- F39** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 16(b)(i)(ii)**
- F40** Word substituted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 16(b)(i)(ii)**
- F41** 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)

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- F42** 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)
- F43** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 16(c)**

## 57 Endorsement of <sup>F44</sup>counterparts ] without hearings.

- (1) Subject to subsection (2) below, where a person <sup>F45</sup>who is the holder of a licence] (referred to in this section as “the licence holder”) <sup>F46</sup>has been given a fixed penalty notice under section 54 of this Act in respect of an offence involving obligatory endorsement,]<sup>F47</sup>the counterpart of] his licence may be endorsed in accordance with this section without any order of a court.
- (2) <sup>F48</sup>The counterpart of] A person’s licence may not be endorsed under this section if at the end of the suspended enforcement period—
- 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
  - the fixed penalty has not been paid in accordance with this Part of this Act.
- (3) On the payment of the fixed penalty before the end of the suspended enforcement period, the <sup>F49</sup>person to whom it is paid] must endorse the relevant particulars on the <sup>F50</sup>counterpart of the] licence and return it <sup>F50</sup>together with the licence] to the licence holder.
- (4) Where any sum determined by reference to the fixed penalty is registered under section 71 of this Act for enforcement against the licence holder as a fine, the <sup>F51</sup>person to whom the fixed penalty is required to be paid] must endorse the relevant particulars on the <sup>F50</sup>counterpart of the] licence and return it <sup>F50</sup>together with the licence] to the licence holder—
- if he is himself <sup>F52</sup>the person] who registers that sum, on the registration of that sum, and
  - in any other case, on being notified of the registration by <sup>F52</sup>the person] who registers that sum.
- (5) References in this section to the relevant particulars are to—
- particulars of the offence, including the date when it was committed, and
  - the number of penalty points to be attributed to the offence.
- (6) <sup>F53</sup>Where the endorsement of]<sup>F54</sup>the counterpart of] a person’s licence under this section <sup>F55</sup>is made by the fixed penalty clerk,] the fixed penalty clerk must send notice of the endorsement and of the particulars endorsed to the Secretary of State.
- <sup>F56</sup>(7) Subsections (3) and (4) above are subject to section 2(4)(a) of and paragraph 7(4)(a) of Schedule 1 to the Road Traffic (New Drivers) Act 1995; and the fixed penalty clerk need not comply with subsection (6) above in a case where he sends a person’s licence and its counterpart to the Secretary of State under section 2(4)(b) of or paragraph 7(4)(b) of Schedule 1 to that Act.]

### Textual Amendments

- F44** 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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- F45** Words in s. 57(1) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 15(2)**; S.I. 2008/3164, art. 4(b)
- F46** Words in s. 57(1) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 5(2)**; S.I. 2008/3164, art. 3(b)
- F47** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 17(a)(i)(ii)**
- F48** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 17(b)**
- F49** Words in s. 57(3) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 5(3)**; S.I. 2008/3164, art. 3(b)
- F50** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 17(c)(i)(ii)**
- F51** Words in s. 57(4) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 5(4)(a)**; S.I. 2008/3164, art. 3(b)
- F52** Words in s. 57(4) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 5(4)(b)**; S.I. 2008/3164, art. 3(b)
- F53** Words in s. 57(6) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 5(5)(a)**; S.I. 2008/3164, art. 3(b)
- F54** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 17(d)**
- F55** Words in s. 57(6) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 5(5)(b)**; S.I. 2008/3164, art. 3(b)
- F56** S. 57(7) inserted (1.6.1997) by 1995 C. 13, s. 10(4), Sch. 2 para. 5; S.I. 1997/267, art. 2(2)

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

- C3** S. 57(3)(4) restricted (1.6.1997) by 1995 c. 13, s. 2(4)(a), **Sch. 1 Pt. IV, para. 7(4)(a)**; S.I. 1997.267, art. 2(2)

**[<sup>F57</sup>57A Endorsement of driving records without hearings**

- (1) Subject to subsection (2) below, where a person who is not the holder of a licence 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.
- (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—
  - (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.

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- (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

**F57** 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)**

### 58 Effect of endorsement [<sup>F58</sup>of counterpart] without hearing.

- (1) Where [<sup>F59</sup>the counterpart of] a person's licence is endorsed under section 57 of this Act he shall be treated for the purposes of sections 13(4), 28, 29 and 45 of this Act and of the <sup>M1</sup>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 57(5)(a) of this Act were particulars of his conviction of that offence.
- (2) In relation to any endorsement of [<sup>F60</sup>the counterpart of] a person's licence under section 57 of this Act—
- (a) the reference in section 45(4) of this Act to the order for endorsement, and
  - (b) 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

**F58** 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)**

**F59** Words inserted by [S.I. 1990/144](#), regs. 2(2), 3, **Sch. 2 para. 18(a)**

**F60** Words inserted by [S.I. 1990/144](#), regs. 2(2), 3, **Sch. 2 para. 18(b)**

#### Marginal Citations

**M1** 1974 c. 53.



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### **[<sup>F61</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**

**F61** 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>F62</sup>59 Notification of court and date of trial in England and Wales.**

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#### **Textual Amendments**

**F62** S. 59 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 14](#)

### **<sup>F63</sup>60 .....**

#### **Textual Amendments**

**F63** 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)**

**C4** S. 60 expressed to be amended (1.4.1996) by [1995 c. 40](#), s. 5, [Sch. 4 para. 71\(8\)\(a\)\(b\)\(c\)\(i\)\(ii\)](#)

### **61 Fixed penalty notice mistakenly given [<sup>F64</sup>to licence holder] : exclusion of fixed penalty procedures.**

- (1) This section applies where, on inspection of a licence [<sup>F65</sup>and its counterpart][<sup>F66</sup>surrendered or delivered under section 54] of this Act, it appears to the fixed penalty clerk [<sup>F67</sup>or the Secretary of State] that the person whose licence it is

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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 <sup>F68</sup> ... [<sup>F69</sup> counterpart of the] licence [<sup>F70</sup> must not be endorsed] under section 57 of this Act but [<sup>F71</sup> if it was sent to the fixed penalty clerk he] must instead send it [<sup>F69</sup> together with the licence] to the chief officer of police.
- (3) 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.
- (4) 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.
- (5) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of any provision 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—
  - (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 whose licence it is as a fine, 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))).
- <sup>F72</sup>[(6) 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 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.]

#### Textual Amendments

- F64** 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)
- F65** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 19(a)**
- F66** Words in s. 61(1) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 6(2)(a)**; S.I. 2008/3164, art. 3(b)
- F67** Words in s. 61(1) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 6(2)(b)**; S.I. 2008/3164, art. 3(b)
- F68** Words in s. 61(2) repealed (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 6(3)(a), **Sch. 7(2)**; S.I. 2008/3164, art. 3(b)
- F69** Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 19(b)(i)(ii)**
- F70** Words in s. 61(2) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 6(3)(b)**; S.I. 2008/3164, art. 3(b)
- F71** Words in s. 61(2) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 6(3)(c)**; S.I. 2008/3164, art. 3(b)
- F72** S. 61(6) added (1.7.1992) by Road Traffic Act 1991 (c.40, SIF 107:1), s. 48, **Sch. 4 para.104**; S.I. 1992/1286, **art. 2**,Sch.

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[<sup>F73</sup>61A **Fixed penalty notice mistakenly given to unlicensed person: 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, but who is not the holder of a licence, 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.
- (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—
  - (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**

**F73** 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)

**Status:**

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