



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART IV **E+W+S**

#### MISCELLANEOUS AND GENERAL

#### **91** Penalty for breach of regulations. **E+W+S**

If a person acts in contravention of or fails to comply with—

- (a) any regulations made by the Secretary of State under the <sup>M1</sup>Road Traffic Act 1988 other than regulations made under section 31, 45 or 132,
- (b) any regulations made by the Secretary of State under the <sup>M2</sup>Road Traffic Regulation Act 1984, other than regulations made under section 28, Schedule 4, Part III of Schedule 9 or Schedule 12,

and the contravention or failure to comply is not made an offence under any other provision of the Traffic Acts, he shall for each offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Marginal Citations**

**M1** 1988 c. 52.

**M2** 1984 c. 27.

#### **[<sup>F1</sup>91A** Application to Community licence holders. **E+W+S**

- (1) The references in sections 7, 26(7) and (8) and (9)(b), 27, 29(1), 30, 31(1), 32, 42(5), 44(1), 46(2), 47(3) and 48(1) and (2) of this Act to a licence includes references to a Community licence; and accordingly the reference in section 27(3)(b) of this Act to the suspension of a licence is to be construed in relation to a Community licence as a reference to the Community licence holder ceasing to be authorised by virtue of section 99(A)(1) of the Road Traffic Act 1988 to drive in Great Britain a motor vehicle of any class.

*Status: Point in time view as at 26/03/2004.*

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- (2) The references in sections 26(9)(a) and 27(3) of this Act to a new licence include references to a counterpart of a Community licence.
- (3) In relation to a Community licence holder to whom a counterpart is issued under section 99B of the Road Traffic Act 1988, the references in Part III of this Act (except sections 75(12), 76(8) and 77(9) of this Act) to a licence include references to a Community licence.
- (4) Where a court orders the endorsement of the counterpart of any Community licence held by a person, it must send notice of the endorsement to the Secretary of State.
- (5) Where a court orders the holder of a Community licence to be disqualified, it must send the Community licence and its counterpart (if any), on their being produced to the court, to the Secretary of State.
- (6) A notice sent by a court to the Secretary of State in pursuance of subsection (4) above must be sent in such manner and to such address and contain such particulars as the Secretary of State may determine, and a Community licence and its counterpart (if any) so sent in pursuance of subsection (5) above must be sent to such address as the Secretary of State may determine.
- (7) Where a Community licence held by a person who is ordered by the court to be disqualified is sent to the Secretary of State in pursuance of subsection (5) above, the Secretary of State—
  - (a) must send to the licensing authority in the EEA State in respect of which the Community licence was issued the holder’s name and address and particulars of the disqualification, and
  - (b) must (subject to subsection (8) below) return the Community licence to the holder—
    - (i) on the expiry of the period of disqualification, or
    - (ii) if earlier, on being satisfied that the holder has left Great Britain and is not normally resident there.
- (8) Where—
  - (a) the Secretary of State would, apart from this subsection, be under a duty on the expiry of the period of disqualification to return a Community licence to a person in pursuance of subsection (7)(b)(i) above, but
  - (b) at that time, the person would not be authorised by virtue of section 99A(1) of the Road Traffic Act 1988 to drive in Great Britain a motor vehicle of any class,
 the Secretary of State must send the Community licence to the licensing authority in the EEA State in respect of which it was issued and explain to them his reasons for so doing.
- (9) A Community licence to be returned to any person under subsection (7) above may be returned to him by delivering it to him or by leaving it at his proper address or by sending it to him by post; and for the purposes of this subsection and section 7 of the Interpretation Act 1978 in its application to this subsection the proper address of any person shall be his latest address as known to the person returning the Community licence.
- (10) In this section “period of disqualification” means, in relation to a Community licence holder, the period for which he is ordered by the court to be disqualified (otherwise than under section 36 of this Act).]

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#### Textual Amendments

**F1** S. 91A inserted (1.1.1997) by S.I. 1996/1974, reg. 3, Sch. 2 para. 4

### [<sup>F2</sup>91B Effect of endorsement on Community licence holders. **E+W+S**

- (1) An order that any particulars or penalty points are to be endorsed on the counterpart of any Community licence held by the person convicted shall operate as an order that—
  - (a) the counterpart of any Community licence which he may then hold, or
  - (b) the counterpart of any licence or Community licence which he may subsequently obtain,is to be so endorsed until he becomes entitled under subsection (3) below to have a counterpart of his Community licence, or a licence and its counterpart, issued to him free from the particulars or penalty points.
- (2) On the issue of a new counterpart of a Community licence or a new licence to a person, any particulars or penalty points ordered to be endorsed on the counterpart of any Community licence held by him shall be entered on the new counterpart or the counterpart of the new licence (as the case may be) unless he has become entitled under subsection (3) below to have a new counterpart of his Community licence or a new licence issued to him free from those particulars or penalty points.
- (3) A person the counterpart of whose Community licence has been ordered to be endorsed is entitled to have issued to him with effect from the end of the period for which the endorsement remains effective (as determined in accordance with section 45(5) of this Act)—
  - (a) a new counterpart of any Community licence then held by him free from the endorsement if he makes an application to the Secretary of State for that purpose in such manner as the Secretary of State may determine, or
  - (b) a new licence with a counterpart free from the endorsement if he applies for a new licence in pursuance of section 97(1) of the Road Traffic Act 1988, surrenders any subsisting licence and its counterpart, pays the fee prescribed by regulations under Part III of that Act and satisfies the other requirements of section 97(1).]

#### Textual Amendments

**F2** S. 91B inserted (1.1.1997) by S.I. 1996/1974, reg. 3, Sch. 2 para. 5

### 92 Application to Crown. **E+W+S**

The following provisions of this Act apply to vehicles and persons in the public service of the Crown: sections 1, 2, 3, 15, 16 [<sup>F3</sup>20] and 49 and the provisions connected with the licensing of drivers.

#### Textual Amendments

**F3** Word in s. 92 inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para.109; S.I. 1992/1286, art. 2,Sch.

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**93 Application of sections 15 and 16 to persons subject to service discipline. E+W  
+S**

- (1) Sections 15 and 16, in their application to persons subject to service discipline, apply outside as well as within Great Britain and have effect as if—
- (a) references to proceedings for an offence under any enactment included references to proceedings for the corresponding service offence,
  - (b) references to the court included a reference to any naval, military, or air force authority before whom the proceedings take place,
  - (c) references to a constable included references to a member of the provost staff, and
  - (d) in section 15, subsection (4) were omitted.
- (2) Expressions used in this section have the same meaning as in sections [<sup>F4</sup>3A] to 10 of the Road Traffic Act 1988.

**Textual Amendments**

- F4** Words in s. 93(2) substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, [Sch. 4 para. 110](#); S.I. 1992/1286, [art. 2](#), Sch.

**94 Proceedings in respect of offences in connection with Crown vehicles. E+W+S**

- (1) Where an offence under the Traffic Acts is alleged to have been committed in connection with a vehicle in the public service of the Crown, proceedings may be brought in respect of the offence against a person nominated for the purpose on behalf of the Crown.
- (2) Subject to subsection (3) below, where any such offence is committed any person so nominated shall also be guilty of the offence as well as any person actually responsible for the offence (but without prejudice to proceedings against any person so responsible).
- (3) Where any person is convicted of an offence by virtue of this section—
- (a) no order is to be made on his conviction save an order imposing a fine,
  - (b) payment of any fine imposed on him in respect of that offence is not to be enforced against him, and
  - (c) apart from the imposition of any such fine, the conviction is to be disregarded for all purposes other than any appeal (whether by way of case stated or otherwise).

**95 Destination of Scottish fines. E+W+S**

- [<sup>F5</sup>(1)] There shall be paid into the Consolidated Fund all fines imposed in respect of the following offences—
- (a) offences committed in Scotland under the provisions of the <sup>M3</sup>Road Traffic Act 1988 down to section 178 or regulations made under those provisions, except—
    - (i) offences under sections 1, 4(2), 17, 27, 31, 33, 37, 47, 67 [<sup>F6</sup>67A(6) and (7)](including the last two subsections as applied by section 67B(4)), 67B], 77, 169, 174(3) and (4) and 177, and

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- (ii) an offence under section 164(6) consisting of a contravention of subsection (3) or (4) of that section,
- (b) offences under section 115 of the <sup>M4</sup>Road Traffic Regulation Act 1984 of which the offenders have been convicted on indictment in Scotland,
- (c) offences committed in Scotland under the provisions of that Act down to the end of Part IX or regulations made under those provisions, being offences of which the offenders have been convicted otherwise than on indictment, except offences under—
  - (i) sections 28(3), 29(3), 47, 104(5) and (6), 105(5), 108(2) and (3),
  - (ii) the provisions of subsections (2) and (3) of section 108 as modified by subsections (2) and (3) of section 109, and
  - (iii) Schedule 12 (other than paragraph 3(5)),
- (d) offences committed in Scotland under this Act.

[<sup>F7</sup>(2) There shall be paid into the Scottish Consolidated Fund all fixed penalties imposed in respect of offences, committed in Scotland, to which subsection (2) of section 46 of the Local Government in Scotland Act 2003 (road traffic offences in relation to which Scottish Ministers may provide funding) applies.]

#### Textual Amendments

- F5** S. 95 renumbered as s. 95(1) (26.3.2004) by virtue of [Local Government in Scotland Act 2003 \(Destination of Fixed Penalties in Scotland\) Order 2004 \(S.I. 2004/956\)](#), arts. 1, 2
- F6** Words inserted (*prosp.*) by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), ss. 4, 8(3)(c), **Sch. 2 Pt. III para. 29**
- F7** S. 95(2) added (26.3.2004) by [Local Government in Scotland Act 2003 \(Destination of Fixed Penalties in Scotland\) Order 2004 \(S.I. 2004/956\)](#), arts. 1, 2

#### Marginal Citations

- M3** 1988 c. 52.
- M4** 1984 c. 27.

## 96 Meaning of “offence involving obligatory endorsement”. **E+W+S**

For the purposes of this Act, an offence involves obligatory endorsement if it is an offence under a provision of the Traffic Acts specified in column 1 of Part I of Schedule 2 to this Act or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “obligatory” (without qualification) appears in column 6 (in the case of Part I) or column 3 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions relating to the offence which are satisfied.

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

- C1** S. 96: power to exclude or modify conferred (1.7.1992) by [Road Traffic Act 1988 \(c. 52, SIF 107:1\)](#), s. **193A(2)(b)** (which was inserted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. **46(2)**; S.I. 1992/1286, art. 2, **Sch.**).

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**97 Meaning of “offence involving obligatory disqualification” and “offence involving discretionary disqualification”. E+W+S**

- (1) For the purposes of this Act, an offence involves obligatory disqualification if it is an offence under a provision of the Traffic Acts specified in column 1 of Part I of Schedule 2 to this Act or an offence specified in column 1 of Part II of that Schedule and either—
- (a) the word “obligatory” (without qualification) appears in column 5 (in the case of Part I) or column 2 (in the case of Part II) against the offence, or
  - (b) that word appears there qualified by conditions or circumstances relating to the offence which are satisfied or obtain.
- (2) For the purposes of this Act, an offence involves discretionary disqualification if it is an offence under a provision of the Traffic Acts specified in column 1 of Part I of Schedule 2 to this Act or an offence specified in column 1 of Part II of that Schedule and either—
- (a) the word “discretionary” (without qualification) appears in column 5 (in the case of Part I) or column 2 (in the case of Part II) against the offence, or
  - (b) that word appears there qualified by conditions or circumstances relating to the offence which are satisfied or obtain.

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

- C2** S. 97: power to exclude or modify conferred (1.7.1992) by [Road Traffic Act 1988 \(c. 52, SIF 107:1\)](#), [s. 193A\(2\)\(b\)](#) (which was inserted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), [s. 46\(2\)](#); S.I. 1992/1286, [art. 2](#), Sch.).

**98 General interpretation. E+W+S**

- (1) In this Act—
- “disqualified” means disqualified for holding or obtaining a licence and “disqualification” is to be construed accordingly,
- “drive” has the same meaning as in the <sup>M5</sup>Road Traffic Act 1988,
- “licence” means a licence to drive a motor vehicle granted under Part III of that Act <sup>F8</sup> . . . ,
- “provisional licence” means a licence granted by virtue of section 97(2) of that Act,
- “the provisions connected with the licensing of drivers” means sections 7, 8, 22, 25 to 29, 31, 32, 34 to 48, [<sup>F9</sup>91A, 91B,] 96 and 97 of this Act,
- “road”—
- (a) in relation to England and Wales, means any highway and any other road to which the public has access, and includes bridges over which a road passes, and
  - (b) in relation to Scotland, [<sup>F10</sup>means any road within the meaning of the Roads (Scotland) Act 1984 and any other way to which the public has access, and includes bridges over which a road passes,],
- “the Road Traffic Acts” means the <sup>M6</sup>Road Traffic Act 1988, the Road Traffic (Consequential Provisions) Act 1988 (so far as it reproduces the effect of provisions repealed by that Act) and this Act, and

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“the Traffic Acts” means the Road Traffic Acts and the <sup>M7</sup>Road Traffic Regulation Act 1984.

<sup>F11</sup>and “Community licence”, “counterpart” and “EEA State” have the same meanings as in Part III of the Road Traffic Act 1988]

(2) Sections 185 and 186 of the Road Traffic Act 1988 (meaning of “motor vehicle” and other expressions relating to vehicles) apply for the purposes of this Act as they apply for the purposes of that <sup>F12</sup>Act].

(3) In the Schedules to this Act—

“RTRA” is used as an abbreviation for the Road Traffic Regulation Act 1984, and

“RTA” is used as an abbreviation for the Road Traffic Act 1988 <sup>F13</sup>or, if followed by “1989”, the Road Traffic (Driver Licensing and Information Systems) Act 1989].

(4) Subject to any express exception, references in this Act to any Part of this Act include a reference to any Schedule to this Act so far as relating to that Part.

#### Textual Amendments

**F8** S. 98(1): words in definition of “licence” repealed (1.1.1997) by S.I. 1996/1974, reg. 3, Sch. 2, para. 6(a)(i)

**F9** S. 98(1): words in definition of “the provisions connected with the licensing of drivers” substituted (1.1.1997) by S.I. 1996/1974, reg. 3, Sch. 2 para. 6(a)(ii)

**F10** Words in s. 98(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para. 111(1); S.I. 1992/1286, art. 2, Sch.

**F11** S. 98(1): definition inserted (1.1.1997) by S.I. 1996/1974, reg. 3, Sch. 2 para. 6(b)

**F12** Word in s. 98(2) added (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para. 111(2); S.I. 1992/1286, art. 2, Sch.

**F13** Words inserted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 7, Sch. 3 para. 26

#### Marginal Citations

**M5** 1988 c. 52.

**M6** 1988 c. 54.

**M7** 1984 c. 27.

## 99 Short title, commencement and extent. **E+W+S**

(1) This Act may be cited as the Road Traffic Offenders Act 1988.

(2) This Act, except so far as it may be brought into force under subsection (3) or (5) below, shall come into force at the end of the period of six months beginning with the day on which it is passed.

(3) The provisions mentioned in subsection (4) below, so far as they relate to Scotland, shall come into force on such day or days as the Secretary of State may by order made by statutory instrument appoint.

(4) Those provisions are—

section 27(4),

section 30, except so far as relating to sections 75 to 77, and

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Part III, except sections 51, 52(1) to (3), 53, 62 to 78, 80, 81 and 83 to 90.

- (5) Section 59 of this Act shall come into force on such day or days as the Secretary of State may by order made by statutory instrument appoint.
- (6) An order under subsection (3) or (5) above may contain such transitional provisions and savings (whether or not involving the modification of any provisions contained in an Act or in subordinate legislation (within the meaning of the <sup>M8</sup>Interpretation Act 1978)) as appear to the Secretary of State necessary or expedient in connection with the provisions brought (wholly or partly) into force by the order, and different days may be appointed for different purposes.
- (7) This Act, except as provided by section 93, does not extend to Northern Ireland.

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

**C3** Power of appointment conferred by s. 99(3)(5) not yet exercised

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**Marginal Citations**

**M8** 1978 c. 30.



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