



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART II

SENTENCE

Disqualification

35 Disqualification for repeated offences.

(1) Where—

- (a) a person is convicted of an offence [^{F1}to which this subsection applies], and
- (b) the penalty points to be taken into account on that occasion number twelve or more,

the court must order him to be disqualified for not less than the minimum period unless the court is satisfied, having regard to all the circumstances, that there are grounds for mitigating the normal consequences of the conviction and thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

[^{F2}(1A) Subsection (1) above applies to—

- (a) an offence involving discretionary disqualification and obligatory endorsement, and
- (b) an offence involving obligatory disqualification in respect of which no order is made under section 34 of this Act.]

(2) The minimum period referred to in subsection (1) above is—

- (a) six months if no previous disqualification imposed on the offender is to be taken into account, and
- (b) one year if one, and two years if more than one, such disqualification is to be taken into account;

and a previous disqualification imposed on an offender is [^{F3}, subject to subsection (2A),] to be taken into account if it [^{F4}was for a fixed period of 56 days or more and was imposed] within the three years immediately preceding the commission

Status: Point in time view as at 16/07/2018. This version of this provision has been superseded.

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of the latest offence in respect of which penalty points are taken into account under section 29 of this Act.

[^{F5}(2A) A previous disqualification imposed on an offender for a fixed period is not to be taken into account for the purposes of subsection (2) if that period would have been less than 56 days but for an extension period added pursuant to—

- (a) section 35A or 35C,
- (b) section 248D of the Criminal Procedure (Scotland) Act 1995, or
- (c) section 147A of the Powers of Criminal Courts (Sentencing) Act 2000.]

(3) Where an offender is convicted on the same occasion of more than one offence [^{F6}to which subsection (1) above applies]—

- (a) not more than one disqualification shall be imposed on him under subsection (1) above,
- (b) in determining the period of the disqualification the court must take into account all the offences, and
- (c) for the purposes of any appeal any disqualification imposed under subsection (1) above shall be treated as an order made on the conviction of each of the offences.

(4) No account is to be taken under subsection (1) above of any of the following circumstances—

- (a) any circumstances that are alleged to make the offence or any of the offences not a serious one,
- (b) hardship, other than exceptional hardship, or
- (c) any circumstances which, within the three years immediately preceding the conviction, have been taken into account under that subsection in ordering the offender to be disqualified for a shorter period or not ordering him to be disqualified.

(5) References in this section to disqualification do not include a disqualification imposed under section 26 of this Act or [^{F7}section 147 of the Powers of Criminal Courts (Sentencing) Act 2000][^{F8}or section 223A or 436A of the Criminal Procedure (Scotland) Act 1975 (offences committed by using vehicles) or a disqualification imposed in respect of an offence of stealing a motor vehicle, an offence under section 12 or 25 of the Theft Act 1968, an offence under section 178 of the Road Traffic Act 1988, or an attempt to commit such an offence].

[^{F9}(5A) The preceding provisions of this section shall apply in relation to a conviction of an offence committed by aiding, abetting, counselling, procuring, or inciting to the commission of, an offence involving obligatory disqualification as if the offence were an offence involving discretionary disqualification.]

(6) In relation to Scotland, references in this section to the court include the [^{F10}justice of the peace court].

(7) This section is subject to section 48 of this Act.

Textual Amendments

- F1** Words in s. 35(1)(a) substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, [Sch. 4 para. 95\(2\)](#); [S.I. 1992/1286, art. 2](#), [Sch.](#) (with art. 6(5))

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- F2** S. 35(1A) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 95(3)**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5))
- F3** Words in s. 35(2) inserted (16.7.2018) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 90(6)(a)** (with s. 180); S.I. 2018/733, art. 2(c)
- F4** Words in s. 35(2) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 95(4)**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5))
- F5** S. 35(2A) inserted (16.7.2018) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 90(6)(b)** (with s. 180); S.I. 2018/733, art. 2(c)
- F6** Words in s. 35(3) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 95(5)**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5))
- F7** Words in s. 35(5) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 122**
- F8** Words in s. 35(5) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 95(6)**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5))
- F9** S. 35(5A) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 95(7)**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5))
- F10** Words in s. 35(6) substituted (S.) (10.3.2008 for specified purposes, 2.6.2008 for specified purposes, 8.12.2008 for specified purposes, 23.2.2009 for specified purposes, 14.12.2009 for specified purposes, 22.2.2010 in so far as not already in force) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), s. 84(1), **sch. para. 7(d)**; S.S.I. 2008/42, art. 3, sch.; S.S.I. 2008/192, art. 3, sch.; S.S.I. 2008/329, art. 3, sch.; S.S.I. 2008/362, art. 3, sch.; S.S.I. 2009/432, art. 3, sch. 1, sch. 2

Modifications etc. (not altering text)

- C1** S. 35: power to exclude or modify conferred (1.7.1992) by Road Traffic Act 1988 (c. 52, SIF 107:1), **s. 193A(2)(b)** (inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 46(2)**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5))).
- C2** S. 35(5A) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 6 para. 15(c)** (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)

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