



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART II

SENTENCE

Disqualification

40 Power of appellate courts in England and Wales to suspend disqualification

- (1) This section applies where a person has been convicted by or before a court in England and Wales of an offence involving obligatory or discretionary disqualification and has been ordered to be disqualified; and in the following provisions of this section—
 - (a) any reference to a person ordered to be disqualified is to be construed as a reference to a person so convicted and so ordered to be disqualified, and
 - (b) any reference to his sentence includes a reference to the order of disqualification and to any other order made on his conviction and, accordingly, any reference to an appeal against his sentence includes a reference to an appeal against any order forming part of his sentence.
- (2) Where a person ordered to be disqualified—
 - (a) appeals to the Crown Court, or
 - (b) appeals or applies for leave to appeal to the Court of Appeal,against his conviction or his sentence, the Crown Court or, as the case may require, the Court of Appeal may, if it thinks fit, suspend the disqualification.
- (3) Where a person ordered to be disqualified has appealed or applied for leave to appeal to the House of Lords—
 - (a) under section 1 of the Administration of Justice Act 1960 from any decision of a Divisional Court of the Queen's Bench Division which is material to his conviction or sentence, or
 - (b) under section 33 of the Criminal Appeal Act 1968 from any decision of the Court of Appeal which is material to his conviction or sentence,

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the Divisional Court or, as the case may require, the Court of Appeal may, if it thinks fit, suspend the disqualification.

- (4) Where a person ordered to be disqualified makes an application in respect of the decision of the court in question under section 111 of the Magistrates' Courts Act 1980 (statement of case by magistrates' court) or section 28 of the Supreme Court Act 1981 (statement of case by Crown Court) the High Court may, if it thinks fit, suspend the disqualification.
- (5) Where a person ordered to be disqualified—
 - (a) applies to the High Court for an order of certiorari to remove into the High Court any proceedings of a magistrates' court or of the Crown Court, being proceedings in or in consequence of which he was convicted or his sentence was passed, or
 - (b) applies to the High Court for leave to make such an application, the High Court may, if it thinks fit, suspend the disqualification.
- (6) Any power of a court under the preceding provisions of this section to suspend the disqualification of any person is a power to do so on such terms as the court thinks fit.
- (7) Where, by virtue of this section, a court suspends the disqualification of any person, it must send notice of the suspension to the Secretary of State.
- (8) The notice must be sent in such manner and to such address and must contain such particulars as the Secretary of State may determine.