



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART III

#### FIXED PENALTIES

#### *<sup>F1</sup>[Conditional offer of fixed penalty]*

#### <sup>F1</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
- (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>F2</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>F3</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

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(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,

(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>F4</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>F5</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,

(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,

a notice under this section.]

(4) Subsections (2) [<sup>F6</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>F7</sup>, 77 and 77A] as a “conditional offer”.

(6) Where a [<sup>F8</sup>conditional offer is issued by a person under subsection (1), (2) or (3) above], he must notify the [<sup>F9</sup>designated officer], or in Scotland clerk of court, specified in it of its issue and its terms; and [<sup>F10</sup>he] is referred to in this section and sections 76 [<sup>F11</sup>, 77 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.

(8) A conditional offer [<sup>F12</sup>sent to an alleged offender who is the holder of a licence] 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—

(i) makes payment of the fixed penalty to [<sup>F13</sup>the appropriate person], and

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- (ii) where the offence to which the offer relates is an offence involving obligatory endorsement, at the same time delivers his licence and its counterpart to [<sup>F13</sup>the appropriate person], and
- (b) where his licence and its counterpart are so delivered, [<sup>F13</sup>the appropriate person] is satisfied on inspecting them that, if the alleged offender 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.
- [ A conditional offer sent to an alleged offender who is not the holder of a licence must <sup>F14</sup>(8A) 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 makes payment of the fixed penalty 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.]
- (9) For the purposes of the [<sup>F15</sup>conditions] set out in subsection (8)(b) [<sup>F16</sup>and (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 [<sup>F18</sup>, 77 and 77A] of this Act “the appropriate person” <sup>F17</sup>(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.]
- (12) In relation to licences which came into force before 1st June 1990, the references in subsection (8) above to the counterpart of a licence shall be disregarded.]

#### Textual Amendments

- F1** 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.
- F2** Words in s. 75(1) inserted (1.10.2002) by 2002 c. 30, s. 76(3); S.I. 2002/2306 art. 2(d)(vii)
- F3** 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)
- F4** 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)

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- F5** 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)
- F6** 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)
- F7** Words in s. 75(5) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 24(2)**; S.I. 2008/3164, art. 4(b)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** Words in s. 75(6) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 24(3)**; S.I. 2008/3164, art. 4(b)
- F12** Words in s. 75(8) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 24(4)**; S.I. 2008/3164, art. 4(b)
- F13** Words in s. 75(8) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 15(6)**; S.I. 2008/3164, art. 3(b)
- F14** 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)
- F15** 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)
- F16** 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)
- F17** 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)
- F18** Words in s. 75(11A) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 24(7)**; S.I. 2008/3164, art. 4(b)

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