



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART III

#### FIXED PENALTIES

##### *Conditional offer of fixed penalty in Scotland*

#### **75 Conditional offer by procurator fiscal**

- (1) This section and sections 76 and 77 apply only in relation to offences committed in Scotland.
- (2) Where—
  - (a) a procurator fiscal receives a report 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,he may send a notice under this section to the alleged offender.
- (3) Where a procurator fiscal receives a report that—
  - (a) an offence under an enactment specified in column 1 of Schedule 5 to this Act has been committed, or
  - (b) an offence under an enactment specified in column 1 of Schedule 3 to this Act has been committed by causing or permitting a vehicle to be used by another person in contravention of any provision made or prohibition imposed by or under any enactment, or
  - (c) an offence of aiding, abetting, counselling, procuring or inciting the commission of—
    - (i) a fixed penalty offence, or
    - (ii) an offence referred to in this subsection,has been committed,he may send a notice under this section to the alleged offender.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A notice under this section is referred to in this section and sections 76 and 77 as a “conditional offer”.
- (5) Where the procurator fiscal issues a conditional offer, he must notify the clerk of court specified in it of its issue and its terms.
- (6) 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 from the date on which the conditional offer was issued or such longer period as may be specified in the conditional offer.
- (7) A conditional offer must indicate that if the following conditions are fulfilled, that is—
- (a) within the period of twenty-eight days from 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 the clerk of court specified in the offer, and
    - (ii) where the offence to which the offer relates is an offence involving obligatory endorsement, at the same time delivers his licence to that clerk, and
  - (b) where his licence is so delivered, that clerk is satisfied on inspecting the licence 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.
- (8) 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 (3)(a) 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.
- (9) 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 this Part of this Act.