



# Vehicle Excise and Registration Act 1994

## 1994 CHAPTER 22

### PART IV

#### LEGAL PROCEEDINGS

##### *Institution and conduct of proceedings*

#### **47 Proceedings in England and Wales or Northern Ireland.**

- (1) No proceedings for an offence under section 29, 34 [<sup>F1</sup>,35A] or 37 shall be instituted in England and Wales or Northern Ireland except by the Secretary of State or a constable; and no such proceedings shall be instituted there by a constable except with the approval of the Secretary of State.
- (2) Proceedings for an offence under—
  - (a) section 29, 34 [<sup>F1</sup>,35A] or 37, or
  - (b) regulations under this Act,may be commenced in England or Wales or Northern Ireland by the Secretary of State or a constable at any time within six months from the date on which evidence sufficient in his opinion to justify the proceedings came to his knowledge.
- (3) No proceedings for any offence may be commenced by virtue of subsection (2) more than three years after the commission of the offence.
- (4) A certificate—
  - (a) stating that the Secretary of State's approval is given for the institution by a constable of any proceedings specified in the certificate, and
  - (b) signed by or on behalf of the Secretary of State,is conclusive evidence of that approval.
- (5) A certificate—
  - (a) stating the date on which evidence such as is mentioned in subsection (2) came to the knowledge of the Secretary of State or a constable, and

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- (b) signed by or on behalf of the Secretary of State or constable,  
is conclusive evidence of that date.
- (6) A certificate—
- (a) including a statement such as is mentioned in paragraph (a) of subsection (4) or (5), and
  - (b) purporting to be signed as mentioned in paragraph (b) of the subsection concerned,
- is to be deemed to be so signed unless the contrary is proved.
- (7) The following provisions of the <sup>M1</sup>Customs and Excise Management Act 1979 do not apply to proceedings in England and Wales or Northern Ireland for any offence under this Act—
- (a) section 145 (which would require such proceedings to be instituted by order of the Secretary of State and certain such proceedings to be commenced in the name of an officer of his), and
  - (b) section 146A (which would impose time-limits for bringing such proceedings).

#### Textual Amendments

- F1** Words in s. 47(1)(2) inserted (29.4.1996 with effect as mentioned in [Sch. 2 para. 14\(3\)](#) of the amending Act) by 1996 c. 8, s. 23, [Sch. 2 para. 14\(1\)\(a\)\(3\)](#)

#### Marginal Citations

- M1** 1979 c. 2.

## 48 Proceedings in Scotland.

- (1) Summary proceedings for an offence under this Act, except under section 44 or 45, may be instituted in Scotland by the Secretary of State.
- (2) The Secretary of State may (despite the provisions of any enactment) institute proceedings by virtue of subsection (1) in any court of summary jurisdiction in Scotland.
- (3) Summary proceedings in Scotland in respect of any offence under—
  - (a) section 29, 34 [<sup>F2</sup>35A] 37, 44 or 45, or
  - (b) regulations under this Act,
 may not be commenced more than three years after the commission of the offence.
- (4) Subject to that (and despite anything in [<sup>F3</sup>section 136 of the Criminal Procedure (Scotland) Act 1995] (limitation of time for proceedings in statutory offences)), any such proceedings may be commenced—
  - (a) in the case of proceedings instituted by the procurator fiscal as a result of information supplied to him by the Secretary of State, at any time within six months from the date on which the information came to the knowledge of the Secretary of State, and
  - (b) in any other case, at any time within six months from the date on which evidence sufficient in the opinion of the person instituting the proceedings to justify the proceedings came to his knowledge;

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and subsection (3) of that section applies for the purposes of this subsection as it applies for the purposes of that section.

- (5) A certificate—
- (a) stating the date on which information such as is mentioned in subsection (4) (a) came to the knowledge of the Secretary of State, and
  - (b) signed by or on behalf of the Secretary of State,
- is conclusive evidence of that date.
- (6) A certificate—
- (a) stating the date on which evidence such as is mentioned in subsection (4)(b) came to the knowledge of the person instituting the proceedings, and
  - (b) signed by or on behalf of that person,
- is conclusive evidence of that date.
- (7) A certificate—
- (a) including a statement such as is mentioned in paragraph (a) of subsection (5) or (6), and
  - (b) purporting to be signed as mentioned in paragraph (b) of the subsection concerned,
- is to be deemed to be so signed unless the contrary is proved.

#### Textual Amendments

- F2** Words in s. 48(3) inserted (29.4.1996 with effect as mentioned in [Sch. 2 para. 14\(3\)](#) of the amending Act) by 1996 c. 8, s. 23, [Sch. 2 para. 14\(1\)\(b\)\(3\)](#)
- F3** Words in s. 48(4) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), [Sch. 4 para. 90\(4\)](#)

#### 49 Authorised persons.

A person authorised by the Secretary of State for the purposes of this section may on behalf of the Secretary of State conduct and appear in any proceedings by or against the Secretary of State under this Act—

- (a) in England and Wales, in a magistrates' court or before a district judge of a county court,
- (b) in Scotland, in any court other than the High Court of Justiciary or the Court of Session, and
- (c) in Northern Ireland, in a court of summary jurisdiction or before a county court.

#### 50 Time-limit for recovery of underpayments and overpayments.

No proceedings shall be brought—

- (a) by the Secretary of State for the recovery of any underpayment of duty on a vehicle licence, or
- (b) by any person for the recovery of any overpayment of duty on a vehicle licence taken out by him,

after the end of the period of twelve months beginning with the end of the period in respect of which the licence was taken out.

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## Evidence

### 51 Admissions.

- (1) This section applies where in any proceedings in England and Wales or Northern Ireland for an offence under section 29 [<sup>F4</sup>, 34 or 43A]—
- (a) it is appropriately proved that there has been served on the accused by post a requirement under section 46(1) or (2) to give information as to the identity of—
    - (i) the driver of, or a person who used, a particular vehicle, or
    - (ii) the person who kept a particular vehicle on a road,
 on the particular occasion on which the offence is alleged to have been committed, and
  - (b) a statement in writing is produced to the court purporting to be signed by the accused that he was—
    - (i) the driver of, or a person who used, that vehicle, or
    - (ii) the person who kept that vehicle on a road,
 on that occasion.
- (2) Where this section applies, the court may accept the statement as evidence that the accused was—
- (a) the driver of, or a person who used, that vehicle, or
  - (b) the person who kept that vehicle on a road,
- on that occasion.
- (3) In subsection (1) “appropriately proved” means proved to the satisfaction of the court—
- (a) on oath, or
  - (b) in the manner prescribed—
    - (i) in England and Wales, by rules under section 144 of the <sup>M2</sup>Magistrates’ Courts Act 1980, or
    - (ii) in Northern Ireland, by magistrates’ courts rules, as defined by Article 2(3) of the <sup>M3</sup>Magistrates’ Courts (Northern Ireland) Order 1981.

#### Textual Amendments

**F4** Words in s. 51(1) substituted (1.4.1998) by 1997 c. 16, s. 18, **Sch. 3 para. 7(2)**; S.I. 1998/560, **art. 2**

#### Marginal Citations

**M2** 1980 c. 43.

**M3** S.I.1981/1675 (N.I.26).

### [<sup>F5</sup>51A Admissions: offences under regulations.

- (1) Subsection (2) applies in relation to any proceedings in England, Wales or Northern Ireland against a person for an offence on the grounds that—
- (a) a vehicle has been sold or disposed of by, through or to him and he has failed to furnish particulars prescribed by regulations made by virtue of section 22(1) (d);

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- (b) a vehicle has been sold or disposed of by or through him and he has failed to furnish a document prescribed by regulations made by virtue of section 22(1)(dd); or
  - (c) he has surrendered, or not renewed, a vehicle licence, or is keeping an unlicensed vehicle, and has failed to furnish any particulars or make a declaration prescribed by regulations made by virtue of section 22(1D).
- (2) If—
- (a) it is appropriately proved that there has been served on the accused by post a requirement under section 46A to give information as to the identity of the person keeping the vehicle at a particular time, and
  - (b) a statement in writing is produced to the court purporting to be signed by the accused that he was keeping the vehicle at that time,
- the court may accept the statement as evidence that the accused was keeping the vehicle at that time.
- (3) In subsection (2) “appropriately proved” has the same meaning as in section 51.]

**Textual Amendments**

**F5** S. 51A inserted (29.4.1996) by 1996 c. 8, s. 23, Sch. 2 para. 13

**52 Records.**

- (1) A statement to which this section applies is admissible in any proceedings as evidence (or, in Scotland, sufficient evidence) of any fact stated in it with respect to matters prescribed by regulations made by the Secretary of State to the same extent as oral evidence of that fact is admissible in the proceedings.
- (2) This section applies to a statement contained in a document purporting to be—
  - (a) a part of the records maintained by the Secretary of State in connection with any functions exercisable by him under or by virtue of this Act,
  - (b) a copy of a document forming part of those records, or
  - (c) a note of any information contained in those records,and to be authenticated by a person authorised to do so by the Secretary of State.
- [<sup>F6</sup>(3) In this section as it has effect in England and Wales—
  - “document” means anything in which information of any description is recorded;
  - “copy”, in relation to a document, means anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly; and
  - “statement” means any representation of fact, however made.
- <sup>F6</sup>(4) In this section as it has effect in Scotland, “document” and “statement” have the same meanings as in section 17(3) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, and the reference to a copy of a document shall be construed in accordance with section 17(4) of that Act.
- <sup>F7</sup>(5) . . . . .

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<sup>F6</sup>(6) Nothing in subsection (4) <sup>F8</sup> . . . limits to civil proceedings the references to proceedings in subsection (1).]

#### Textual Amendments

- F6** S. 52(3)-(6) substituted (31.1.1997) for s. 52(3)-(5) by 1995 c. 38, s. 15(1), **Sch. 1 para. 19** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**
- F7** S. 52(5) repealed (6.9.1999) by S.I. 1997/2983 (N.I. 21), art. 13(2), **Sch. 2** (with art. 12); S.R. 1999/339, **art. 2**
- F8** Words in s. 52(6) repealed (6.9.1999) by S.I. 1997/2983 (N.I. 21), art. 13(2), **Sch. 2** (with art. 12); S.R. 1999/339, **art. 2**

### 53 Burden of proof.

Where in any proceedings for an offence under section 29, 34, 37 or 45 any question arises as to—

- (a) the number of vehicles used,
- (b) the character, weight or cylinder capacity of a vehicle,
- (c) the seating capacity of a vehicle, or
- (d) the purpose for which a vehicle has been used,

the burden of proof in respect of the matter lies on the accused.

### 54 Single witness sufficient in certain Scottish proceedings.

In any proceedings in Scotland for an offence under section 29 or 33 the accused may be convicted on the evidence of one witness.

### 55 Guilty plea by absent accused.

- (1) This section applies where, under section [<sup>F9</sup>12(5)] of the <sup>M4</sup>Magistrates' Courts Act 1980 or Article 24(2) of the <sup>M5</sup>Magistrates' Courts (Northern Ireland) Order 1981, a person is convicted in his absence of [<sup>F10</sup>an offence under section 29 or 35A]and it is appropriately proved that a relevant notice was served on the accused with a summons
- (2) In subsection (1) “appropriately proved” means—
  - (a) in England and Wales, proved to the satisfaction of the court—
    - (i) on oath, or
    - (ii) in the manner prescribed by rules under section 144 of the Magistrates' Courts Act 1980, and
  - (b) in Northern Ireland, proved to the satisfaction of the court—
    - (i) on oath,
    - (ii) by affidavit, or
    - (iii) in the manner prescribed by magistrates' courts rules, as defined by Article 2(3) of the Magistrates' Courts (Northern Ireland) Order 1981.
- (3) In this section “relevant notice”, in relation to an accused, means a notice stating that, in the event of his being convicted of the offence, it will be alleged that an order requiring him to pay an amount specified in the notice falls to be made by the court—
  - (a) in a case within subsection (1)(a), under section 30, or

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- (b) in a case within subsection (1)(b), under section 36.
- (4) Where this section applies, the court shall proceed under section 30, or section 36, as if the amount specified in the relevant notice were the amount calculated in accordance with that section.
- (5) The court shall not so proceed if it is stated in the notification purporting to be given by or on behalf of the accused under—
- (a) section [F11 12(4)] of the <sup>M6</sup>Magistrates' Courts Act 1980, or
  - (b) Article 24(2) of the <sup>M7</sup>Magistrates' Courts (Northern Ireland) Order 1981, that the amount specified in the relevant notice is inappropriate.

#### Textual Amendments

- F9** Words in s. 55(1) substituted (1.9.1998) by 1998 c. 15, s. 4(2)(c); S.I. 1998/1837, art. 2
- F10** Words in s. 55(1) substituted (29.4.1996 with effect as mentioned in Sch. 2 para. 14(3) of the amending Act) for s. 55(1)(a)(b) by 1996 c. 8, s. 23, Sch. 2 para. 14(2)(3)
- F11** Words in s. 55(5)(a) substituted (1.9.1998) by 1998 c. 15, s. 4(1)(b); S.I. 1998/1837, art. 2

#### Marginal Citations

- M4** 1980 c. 43.
- M5** S.I. 1981/1675 (N.I.26).
- M6** 1980 c. 43.
- M7** S.I. 1981/1675 (N.I.26).

*Penalties etc.*

## 56 Penalties and fines.

- (1) Any penalty recovered under or by virtue of this Act shall be paid into the Consolidated Fund.
- (2) Section 151 of the <sup>M8</sup>Customs and Excise Management Act 1979 (application of penalties) does not apply to penalties recovered under or by virtue of this Act.
- (3) Any fine imposed under or by virtue of this Act which (apart from this subsection) would not be paid into the Consolidated Fund shall be so paid.

#### Marginal Citations

- M8** 1979 c. 2.

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**Changes to legislation:**

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