



# 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, [F131A,] 34 [F2,35A] 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, [F131A,] 34 [F2,35A] 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** Word in s. 47(1)(2)(a) inserted (19.12.2003) by [Finance Act 2002 \(c. 23\)](#), s. 19, [Sch. 5 para. 12](#); [S.I. 2003/3086](#), [art. 2\(a\)](#)
- F2** 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, [<sup>F3</sup>31A,] 34 [<sup>F4</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>F5</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

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- (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;
- 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

- F3** Word in s. 48(3)(a) inserted (19.12.2003) by Finance Act 2002 (c. 23), s. 19, **Sch. 5 para. 13**; S.I. 2003/3086, **art. 2(a)**
- F4** 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)**
- F5** 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

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- (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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