



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART II

SENTENCE

Disqualification

[^{F1}36 Disqualification until test is passed.

- (1) Where this subsection applies to a person the court must order him to be disqualified until he passes the appropriate driving test.
- (2) Subsection (1) above applies to a person who is disqualified under section 34 of this Act on conviction of—
 - (a) manslaughter, or in Scotland culpable homicide, by the driver of a motor vehicle,^{F2}...
 - [^{F3}(b) an offence under section 1 of the Road Traffic Act 1988 (causing death by dangerous driving),
 - (c) an offence under section 1A of that Act (causing serious injury by dangerous driving),
 - (d) an offence under section 2 of that Act (dangerous driving),
 - (e) an offence under section 3ZC of that Act (causing death by driving: disqualified drivers), or
 - (f) an offence under section 3ZD of that Act (causing serious injury by driving: disqualified drivers).]
- (3) Subsection (1) above also applies—
 - (a) to a person who is disqualified under section 34 or 35 of this Act in such circumstances or for such period as the Secretary of State may by order prescribe, or
 - (b) to such other persons convicted of such offences involving obligatory endorsement as may be so prescribed.

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(4) Where a person to whom subsection (1) above does not apply is convicted of an offence involving obligatory endorsement, the court may order him to be disqualified until he passes the appropriate driving test (whether or not he has previously passed any test).

(5) In this section—

“ appropriate driving test ” means—

- (a) an extended driving test, where a person is convicted of an offence involving obligatory disqualification or is disqualified under section 35 of this Act,
- (b) a test of competence to drive, other than an extended driving test, in any other case,

“ extended driving test ” means a test of competence to drive prescribed for the purposes of this section, and

“ test of competence to drive ” means a test prescribed by virtue of section 89(3) of the Road Traffic Act 1988.

(6) In determining whether to make an order under subsection (4) above, the court shall have regard to the safety of road users.

(7) Where a person is disqualified until he passes the extended driving test—

- (a) any earlier order under this section shall cease to have effect, and
- (b) a court shall not make a further order under this section while he is so disqualified.

(8) Subject to subsection (9) below, a disqualification by virtue of an order under this section shall be deemed to have expired on production to the Secretary of State of evidence, in such form as may be prescribed by regulations under section 105 of the Road Traffic Act 1988, that the person disqualified has passed the test in question since the order was made.

(9) A disqualification shall be deemed to have expired only in relation to vehicles of such classes as may be prescribed in relation to the test passed by regulations under that section.

^{F4}(10)

[Where a person's driving record is endorsed with particulars of a disqualification under ^{F5}(10A) this section, it shall also be endorsed with the particulars of any test of competence to drive that he has passed since the order of disqualification was made.]

(11) For the purposes of an order under this section, a person shall be treated as having passed a test of competence to drive other than an extended driving test if he passes a corresponding test conducted—

- (a) under the law of Northern Ireland, the Isle of Man, any of the Channel Islands, [^{F6}an][^{F7}EEA State], Gibraltar or a designated country or territory ^{F8} . . . , or
- (b) for the purposes of obtaining a British Forces licence (as defined by section 88(8) of [^{F9}the Road Traffic Act 1988]);

and accordingly subsections (8) to (10) above shall apply in relation to such a test as they apply in relation to a test prescribed by virtue of section 89(3) of that Act.

^{F10}(11A) [For the purposes of subsection (11) above, “designated country or territory” means a country or territory designated by order under section 108(2) of the Road Traffic Act 1988 but a test conducted under the law of such a country or territory shall not be

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regarded as a corresponding test unless a person passing such a test would be entitled to an exchangeable licence as defined in section 108(1) of that Act.]

(12) This section is subject to section 48 of this Act.

(13) The power to make an order under subsection (3) above shall be exercisable by statutory instrument; and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

(14) The Secretary of State shall not make an order under subsection (3) above after the end of 2001 if he has not previously made such an order.]

Textual Amendments

- F1** S. 36 substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 32; S.I. 1992/1286, art. 2, [Sch.](#) (with art. 6(5))
- F2** Word in s. 36(2)(a) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 6 para. 5\(2\)](#) (with s. 29(5)); S.I. 2015/778, art. 3, [Sch. 1 para. 75](#)
- F3** S. 36(2)(b)-(f) substituted for s. 36(2)(b) (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 6 para. 5\(3\)](#) (with s. 29(5)); S.I. 2015/778, art. 3, [Sch. 1 para. 75](#)
- F4** S. 36(10) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), [Sch. 3 para. 39](#), [Sch. 7\(4\)](#); S.I. 2015/560, art. 3 (with arts. 4-9)
- F5** S. 36(10A) inserted (1.4.2009) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), [Sch. 2 para. 7](#); S.I. 2008/3164, art. 4(b)
- F6** Word in s. 36(11)(a) substituted (31.12.2020) by [The Driving Licences \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1251\)](#), regs. 1(2), [3\(2\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F7** Words in s. 36 substituted (1.1.1997) by S.I. 1996/1974, reg. 3, [Sch. 2 para. 3\(2\)\(a\)](#)
- F8** Words in s. 36(11)(a) repealed by virtue of S.I. 1996/1974, reg. 3, [Sch. 2](#), para. 3(2)(b)
- F9** Words in s. 36(11)(b) substituted (1.1.1997) by S.I. 1996/1974, reg. 3, [Sch. 2 para. 3\(3\)](#)
- F10** S. 36(11A) substituted (31.8.1998) by 1998/1917, art. 3

Modifications etc. (not altering text)

- C1** S. 36: power to exclude or modify conferred (1.7.1992) by [Road Traffic Act 1988 \(c. 52, SIF 107:1\)](#), s. 193A(2)(b) (inserted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 46(2); S.I. 1992/1286, art. 2, [Sch.](#) (with art. 6(5))).

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 36(3) word substituted by 2006 c. 49 s. 37(2)(b)
- s. 36(3) words substituted by 2006 c. 49 s. 37(2)(a)
- s. 36(3) words substituted by 2006 c. 49 s. 37(2)(c)
- s. 36(5) words inserted by 2006 c. 49 s. 37(3)
- s. 36(5) words substituted by 2006 c. 49 s. 37(3)
- s. 36(8) words substituted by 2006 c. 49 s. 37(4)
- s. 36(9) words substituted by 2006 c. 49 s. 37(5)
- s. 36(14) repealed by 2006 c. 49 s. 37(7)Sch. 7(10)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 29(2A) inserted by 2006 c. 49 s. 34(2)
- s. 30A-30D inserted by 2006 c. 49 s. 34(3)
- s. 30C(5)(f) words substituted by S.I. 2009/1885 Sch. 1 para. 15
- s. 34A(7A) inserted by 2009 c. 25 Sch. 21 para. 90(3)(d)
- s. 34B(12) added by 2009 c. 25 Sch. 21 para. 90(4)(c)
- s. 34D-34G inserted by 2006 c. 49 s. 15(1)
- s. 34D(1)(d) words inserted by 2009 c. 25 Sch. 21 para. 90(5)(a)
- s. 34D(3) words inserted by 2009 c. 25 Sch. 21 para. 90(5)(b)
- s. 34D(5A) inserted by 2009 c. 25 Sch. 21 para. 90(5)(c)
- s. 34D(6)(a) words substituted by 2009 c. 25 Sch. 21 para. 90(5)(d)(i)
- s. 34D(6)(b) words substituted by 2009 c. 25 Sch. 21 para. 90(5)(d)(ii)
- s. 34D(6A) inserted by 2009 c. 25 Sch. 21 para. 90(5)(e)
- s. 34F(5)(f) words substituted by S.I. 2009/1885 Sch. 1 para. 17
- s. 35A(6)(a) words substituted by 2012 c. 10 Sch. 13 para. 8(b) (This amendment not applied to legislation.gov.uk. S. 35A(6) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), ss. 30(1)(c), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 25)
- s. 35A(6)(b) words inserted by 2012 c. 10 Sch. 13 para. 8(c) (This amendment not applied to legislation.gov.uk. S. 35A(6) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), ss. 30(1)(c), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 25)
- s. 36(13A) inserted by 2006 c. 49 s. 37(6)
- s. 40B(9) words substituted by 2006 c. 49 Sch. 2 para. 33
- s. 41B inserted by 2006 c. 49 s. 15(2)
- s. 84(1) s. 84 renumbered as s. 84(1) by 2004 c. 28 s. 16(3)
- s. 84(2)(3) inserted by 2004 c. 28 s. 16(3)
- Sch. 1 para. 3(aa) inserted by 2006 c. 49 s. 15(3)(a)
- Sch. 1 para. 4(za) inserted by 2006 c. 49 s. 15(3)(b)