



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART II

SENTENCE

General

46 **Combination of disqualification and endorsement with probation orders and orders for discharge.** **E+W**

- (1) Notwithstanding anything in [^{F1}section 82(4) of the Sentencing Code] (conviction of offender ^{F2} . . . discharged to be disregarded for the purposes of enactments relating to disqualification), a court in England and Wales which on convicting a person of an offence involving obligatory or discretionary disqualification makes—
- ^{F3}(a)
- (b) an order discharging him absolutely or conditionally,
- may on that occasion also exercise any power conferred, and must also discharge any duty imposed, on the court by sections 34, 35, 36 [^{F4}, 44 or 44A] of this Act.
- (2) A conviction—
- (a) in respect of which a court in England and Wales has ordered a person to be disqualified, or
- (b) of which particulars have been endorsed on ^{F5}... [^{F6} his driving record],
- is to be taken into account, notwithstanding anything in [^{F7}section 82(2) of the Sentencing Code] (conviction of offender ^{F8} . . . discharged to be disregarded for the purpose of subsequent proceedings), in determining his liability to punishment or disqualification for any offence involving obligatory or discretionary disqualification committed subsequently.
- (3) Where—
- (a) a person is charged in Scotland with an offence involving obligatory or discretionary disqualification, and

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S - Scotland extent

Changes to legislation: Road Traffic Offenders Act 1988, Section 46 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(b) the court makes an order in respect of the offence under [F⁹section 228 (probation) or 246(2) or (3) (absolute discharge) of the Criminal Procedure (Scotland) Act 1995]

then, for the purposes of sections 34, 35, 36, 44 F¹⁰[F¹¹... and 45A] of this Act, he shall be treated as if he had been convicted of an offence of the kind in question and [F¹²section 247 of that Act shall not apply].

Extent Information

E1 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

- F1** Words in s. 46(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 105(2)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F2** Words in s. 46(1) repealed (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, 39:1), ss. 100, 101(2), Sch. 11 para. 38(1), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F3** S. 46(1)(a) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 54, **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(22), 44(4)(h) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F4** Words in s. 46(1) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 11(2)**; S.I. 2008/3164, art. 4(b)
- F5** Words in s. 46(2)(b) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 43, **Sch. 7(4)**; S.I. 2015/560, art. 3 (with arts. 4-9)
- F6** Words in s. 46(2)(b) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 11(3)**; S.I. 2008/3164, art. 4(b)
- F7** Words in s. 46(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 105(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F8** Words in s. 46(2) repealed (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, 101(2), Sch. 11 para. 38(2), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F9** Words in s. 46(3)(b) substituted (1.4.1996) by 1995 c. 40, s. 5, **Sch. 4 para. 71(7)(a)**
- F10** Word in s. 46(3) omitted (8.6.2015) by virtue of The Road Safety Act 2006 (Consequential Amendments) Order 2015 (S.I. 2015/583), art. 1(1), **Sch. 2 para. 3(c)**
- F11** Words in s. 46(3) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 2 para. 11(4)**; S.I. 2008/3164, art. 4(b)
- F12** Words in s. 46 substituted (1.4.1996) by 1995 c. 40, s. 5, **Sch. 4 para. 71(7)(b)**

Modifications etc. (not altering text)

C1 S. 46: 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.**)

46 Combination of disqualification and endorsement with probation orders and orders for discharge. **S**

(1) Notwithstanding anything in section 13(3) of the ^{M1}Powers of Criminal Courts Act 1973 (conviction of offender placed on probation or discharged to be disregarded for the purposes of enactments relating to disqualification), a court in England and

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W - England and Wales extent S - Scotland extent

Changes to legislation: Road Traffic Offenders Act 1988, Section 46 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Wales which on convicting a person of an offence involving obligatory or discretionary disqualification makes—

^{F3}(a)

(b) an order discharging him absolutely or conditionally,

may on that occasion also exercise any power conferred, and must also discharge any duty imposed, on the court by sections 34, 35, 36 [^{F4}, 44 or 44A] of this Act.

(2) A conviction—

(a) in respect of which a court in England and Wales has ordered a person to be disqualified, or

(b) of which particulars have been endorsed on ^{F5}... [^{F6} his driving record]

is to be taken into account, notwithstanding anything in section 13(1) of the Powers of Criminal Courts Act 1973 (conviction of offender placed on probation or discharged to be disregarded for the purpose of subsequent proceedings), in determining his liability to punishment or disqualification for any offence involving obligatory or discretionary disqualification committed subsequently.

(3) Where—

(a) a person is charged in Scotland with an offence involving obligatory or discretionary disqualification, and

(b) the court makes an order in respect of the offence under ^{F13}[^{F14} ... 246(2) or (3) (absolute discharge) of the Criminal Procedure (Scotland) Act 1995]

then, for the purposes of sections 34, 35, 36, 44 [^{F10}[^{F11} ... and 45A] and 45 of this Act, he shall be treated as if he had been convicted of an offence of the kind in question and [^{F15}section 247 of that Act shall not apply].

Extent Information

E2 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

Textual Amendments

F3 S. 46(1)(a) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 54, Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(22), 44(4)(h) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))

F4 Words in s. 46(1) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 2 para. 11(2); S.I. 2008/3164, art. 4(b)

F5 Words in s. 46(2)(b) repealed (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 43, Sch. 7(4); S.I. 2015/560, art. 3 (with arts. 4-9)

F6 Words in s. 46(2)(b) inserted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 2 para. 11(3); S.I. 2008/3164, art. 4(b)

F10 Word in s. 46(3) omitted (8.6.2015) by virtue of The Road Safety Act 2006 (Consequential Amendments) Order 2015 (S.I. 2015/583), art. 1(1), Sch. 2 para. 3(c)

F11 Words in s. 46(3) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 2 para. 11(4); S.I. 2008/3164, art. 4(b)

F13 Words in s. 46(3)(b) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), sch. 2 para. 37; S.S.I. 2010/413, art. 2, sch. (with art. 3(1))

F14 Words in s. 46(3)(b) substituted (1.4.1996) by 1995 c. 40, s. 5, Sch. 4 para. 71(7)(a)

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W - England and Wales extent S - Scotland extent

Changes to legislation: Road Traffic Offenders Act 1988, Section 46 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

F15 Words in s. 46(7) substituted (1.4.1996) by 1995 c. 40, s. 5, **Sch. 4 para. 71(7)**

Modifications etc. (not altering text)

C2 S. 46: 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.**).

Marginal Citations

M1 1973 c. 62.

Status:

There are multiple versions of this provision on screen. These apply to different geographical extents.

Skip to:

- E+W - England and Wales extent
- S - Scotland extent

Changes to legislation:

Road Traffic Offenders Act 1988, Section 46 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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\(3\)\(b\)](#)