

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

## SCHEDULES

### SCHEDULE 4

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *The Road Traffic Offenders Act 1988 (c. 53)*

- 80 In section 1 of the Road Traffic Offenders Act 1988 (requirement of warning etc of prosecution of certain offences), in subsection (1) for the words “where a person” to “convicted unless” there shall be substituted the words “a person shall not be convicted of an offence to which this section applies unless”.
- 81 For subsections (4) to (6) of section 2 of that Act (requirement of warning of prosecution: supplementary) there shall be substituted—
- “(4) Failure to comply with the requirement of section 1(1) of this Act in relation to an offence is not a bar to the conviction of a person of that offence by virtue of the provisions of—
- (a) section 24 of this Act, or
  - (b) any of the enactments mentioned in section 24(6);
- but a person is not to be convicted of an offence by virtue of any of those provisions if section 1 applies to the offence with which he was charged and the requirement of section 1(1) was not satisfied in relation to the offence charged.”
- 82 In section 5 of that Act (exemption from Licensing Act offence) for the words “section 4” there shall be substituted the words “section 3A, 4”.
- 83 In section 7 of that Act (duty of accused to provide licence) for the words “obligatory endorsement” there shall be substituted the words “obligatory or discretionary disqualification”.
- 84 In section 11(1) of that Act (evidence by certificate as to driver, user or owner) for the words “motor vehicle” in each place where they occur there shall be substituted the words “mechanically propelled vehicle”.
- 85 In section 12 of that Act (proof of identity of driver) after subsection (3) there shall be added—
- “(4) In summary proceedings in Scotland for an offence to which section 20(2) of the Road Traffic Act 1988 applies, where—
- (a) it is proved to the satisfaction of the court that a requirement under section 172(2) of the Road Traffic Act 1988 to give information as to the identity of a driver on a particular occasion to which the complaint relates has been served on the accused by post, and
  - (b) a statement in writing is produced to the court, purporting to be signed by the accused, that the accused was the driver of that vehicle on that occasion,

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

that statement shall be sufficient evidence that the accused was the driver of the vehicle on that occasion.”

- 86 In section 14 of that Act (use of records kept by operators of goods vehicles) after the word “proceedings” there shall be inserted the words “for an offence under section 40A of the Road Traffic Act 1988 or”.
- 87 (1) Section 15 of that Act (use of specimens in proceedings for offences under sections 4 and 5 of the Road Traffic Act 1988) shall be amended as follows.
- (2) In subsection (1) for the words “section 4 or 5 of the Road Traffic Act 1988 (motor vehicles: drink and drugs)” there shall be substituted the words “section 3A, 4 or 5 of the Road Traffic Act 1988 (driving offences connected with drink or drugs)”, and for the words “sections 4 to 10” there shall be substituted the words “sections 3A to 10”.
- (3) In subsection (2) after the word “cases” there shall be inserted the words “(including cases where the specimen was not provided in connection with the alleged offence)”.
- (4) For subsection (3) there shall be substituted—
- “(3) That assumption shall not be made if the accused proves—
- (a) that he consumed alcohol before he provided the specimen and—
- (i) in relation to an offence under section 3A, after the time of the alleged offence, and
- (ii) otherwise, after he had ceased to drive, attempt to drive or be in charge of a vehicle on a road or other public place, and
- (b) that had he not done so the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and, if it is alleged that he was unfit to drive through drink, would not have been such as to impair his ability to drive properly.”
- 88 (1) Section 17 of that Act (provisions as to proceedings for certain offences in connection with the construction and use of vehicles) shall be amended as follows.
- (2) In subsection (1) for the words “section 42(1) of the Road Traffic Act 1988 (contravention” there shall be substituted the words “section 40A, 41A, 41B or 42 of the Road Traffic Act 1988 (using vehicle in dangerous condition or contravention”.
- (3) In subsection (3) after the word “requirements” there shall be inserted the words “, or so that it has ceased to be excessive,”.
- 89 In section 21(3) of that Act (evidence of one witness sufficient in Scotland in relation to certain offences) for the words “or 36” there shall be substituted the words “, 36 or 172.”
- 90 (1) Section 23 of that Act (alternative verdicts in Scotland) shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words “motor vehicle” there shall be substituted the words “mechanically propelled vehicle”; and
- (b) for the word “reckless” there shall be substituted the word “dangerous”.
- (3) Subsection (2) shall be omitted.
- 91 (1) Section 27 of that Act (production of licence) shall be amended as follows.
- (2) In subsection (1), for the words from “endorsement” to “Act” there shall be substituted the words “or discretionary disqualification, and a court proposes to make

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

an order disqualifying him or an order under section 44 of this Act, the court must, unless it has already received them.”.

- (3) Subsection (2) shall be omitted.
- (4) In subsection (3), after the words “as required” there shall be inserted the words “under this section or section 44 of the Powers of Criminal Courts Act 1973, or section 223A or 436A of the Criminal Procedure (Scotland) Act 1975”.
- 92 (1) Section 30 of that Act (modification of penalty points where fixed penalty also in question) shall be amended as follows.
- (2) In subsection (1)(a) for the words “obligatory or discretionary disqualification” there shall be substituted the words “obligatory endorsement”.
- (3) In subsection (2)—
- (a) the words “Subject to section 28(2) of this Act” shall be omitted,
  - (b) in paragraph (a) for “28(1)” there shall be substituted “28”, and
  - (c) in paragraph (b) at the end there shall be added the words “(except so far as they have already been deducted by virtue of this paragraph)”.
- (4) Subsection (3) shall be omitted.
- 93 In section 31(1) of that Act (court may take particulars endorsed on licence into account) for the words “obligatory endorsement” there shall be substituted the words “obligatory or discretionary disqualification”.
- 94 In section 32(1) of that Act (court in Scotland may take extract from licensing records into account) for the words “obligatory endorsement” there shall be substituted the words “obligatory or discretionary disqualification”.
- 95 (1) Section 35 of that Act (disqualification for repeated offences) shall be amended as follows.
- (2) In subsection (1)(a) for the words “involving obligatory or discretionary disqualification” there shall be substituted the words “to which this subsection applies”.
- (3) After subsection (1) there shall be inserted—
- “(1A) Subsection (1) above applies to—
- (a) an offence involving discretionary disqualification and obligatory endorsement, and
  - (b) an offence involving obligatory disqualification in respect of which no order is made under section 34 of this Act.”
- (4) In subsection (2) for the words “was imposed” there shall be substituted the words “was for a fixed period of 56 days or more and was imposed”.
- (5) In subsection (3) for the words “involving obligatory or discretionary disqualification” there shall be substituted the words “to which subsection (1) above applies”.
- (6) In subsection (5) for the words following “1973” there shall be substituted the words “or section 223A or 436A of the Criminal Procedure (Scotland) Act 1975 (offences committed by using vehicles) or a disqualification imposed in respect of an offence of stealing a motor vehicle, an offence under section 12 or 25 of the Theft Act 1968,

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

an offence under section 178 of the Road Traffic Act 1988, or an attempt to commit such an offence”.

(7) After subsection (5) there shall be inserted—

“(5A) The preceding provisions of this section shall apply in relation to a conviction of an offence committed by aiding, abetting, counselling, procuring, or inciting to the commission of, an offence involving obligatory disqualification as if the offence were an offence involving discretionary disqualification.”

96 In section 37(3) of that Act (driver disqualified until test is passed entitled to provisional licence) for “36(1)” there shall be substituted “36”.

97 After section 41 of that Act there shall be inserted—

**“41A Suspension of disqualification pending determination of applications under section 34B**

(1) Where a person makes an application to a court under section 34B of this Act, the court may suspend the disqualification to which the application relates pending the determination of the application.

(2) Where a court exercises its power under subsection (1) above it must send notice of the suspension to the Secretary of State.

(3) The notice must be sent in such manner and to such address, and must contain such particulars, as the Secretary of State may determine.”

98 In section 42 of that Act (removal of disqualification) after subsection (5) there shall be inserted—

“(5A) Subsection (5)(a) above shall apply only where the disqualification was imposed in respect of an offence involving obligatory endorsement; and in any other case the court must send notice of the order made under this section to the Secretary of State.

(5B) A notice under subsection (5A) above must be sent in such manner and to such address, and must contain such particulars, as the Secretary of State may determine.”

99 (1) Section 45 of that Act (effect of endorsement) shall be amended as follows.

(2) In subsection (5)(b), for sub-paragraph (ii) there shall be substituted—

“(ii) an order is made for the disqualification of the offender under section 35 of this Act”.

(3) In subsection (6) for the word “reckless” in both places where it occurs there shall be substituted the word “dangerous”.

(4) In subsection (7), for paragraph (a) there shall be substituted—

“(a) section 3A, 4(1) or 5(1)(a) of that Act (driving offences connected with drink or drugs), or”.

100 (1) Section 47 of that Act (supplementary provisions as to disqualifications and endorsements) shall be amended as follows.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (2) In subsection (2), for the words from “and, if it” to “disqualified, must” there shall be substituted the words “, and where a court orders the holder of a licence to be disqualified for a period of 56 days or more it must,”.
- (3) In subsection (3), for the words “any such order” there shall be substituted the words “an order for the endorsement of a licence or the disqualification of a person”.
- 101 For section 48 of that Act (exemption from disqualification and endorsement for offences against construction and use regulations) there shall be substituted—

**“48 Exemption from disqualification and endorsement for certain construction and use offences**

- (1) Where a person is convicted of an offence under section 40A of the Road Traffic Act 1988 (using vehicle in dangerous condition etc) the court must not—
- (a) order him to be disqualified, or
  - (b) order any particulars or penalty points to be endorsed on the counterpart of any licence held by him,
- if he proves that he did not know, and had no reasonable cause to suspect, that the use of the vehicle involved a danger of injury to any person.
- (2) Where a person is convicted of an offence under section 41A of the Road Traffic Act 1988 (breach of requirement as to brakes, steering-gear or tyres) the court must not—
- (a) order him to be disqualified, or
  - (b) order any particulars or penalty points to be endorsed on the counterpart of any licence held by him,
- if he proves that he did not know, and had no reasonable cause to suspect, that the facts of the case were such that the offence would be committed.
- (3) In relation to licences which came into force before 1st June 1990, the references in subsections (1) and (2) above to the counterpart of a licence shall be construed as references to the licence itself.”
- 102 For section 53 of that Act there shall be substituted—

**“53 Amount of fixed penalty**

- (1) The fixed penalty for an offence is—
- (a) such amount as the Secretary of State may by order prescribe, or
  - (b) one half of the maximum amount of the fine to which a person committing that offence would be liable on summary conviction,
- whichever is the less.
- (2) Any order made under subsection (1)(a) may make different provision for different cases or classes of case or in respect of different areas.”
- 103 (1) Section 54 of that Act (power to give fixed penalty notices on the spot or at a police station exercisable only if offender would not if convicted be liable to disqualification under section 35) shall be amended as follows.
- (2) In subsection (1), after the word “where”, there shall be inserted the words “in England and Wales”.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (3) After subsection (9) there shall be added—
- “(10) In determining for the purposes of subsections (3)(b) and (5)(a) above whether a person convicted of an offence would be liable to disqualification under section 35, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I of Schedule 2 to this Act, that the number of penalty points to be attributed to the offence would be the lowest in the range.”
- 104 In section 61 of that Act (fixed penalty notice mistakenly given) after subsection (5) there shall be added—
- “(6) In determining for the purposes of subsection (1) above whether a person convicted of an offence would be liable to disqualification under section 35, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I of Schedule 2 to this Act, that the number of penalty points to be attributed to the offence would be the lowest in the range.”
- 105 In section 69(4) of that Act (references to fixed penalty clerk) after the words “of this Act” there shall be inserted the words “(except in sections 75 to 77)”.
- 106 At the end of section 86(1) of that Act (functions of traffic wardens) there shall be added the words “unless that offence was committed whilst the vehicle concerned was stationary.”
- 107 (1) Section 89 of that Act (interpretation), shall be amended as follows.
- (2) After the definition of “authorised person” there shall be inserted—
- ““chief constable” means, in Scotland in relation to any conditional offer, the chief constable for the area in which the conditional offer has been issued.”
- (3) In the definition of “chief officer of police” for the words “or notice to owner” there shall be substituted the words “, notice to owner or conditional offer”.
- 108 In section 90 of that Act (index to Part III)—
- (a) in the entry relating to the expression “Conditional offer”, for the words “Section 75(4)” there shall be substituted the words “Section 75(3)”; and
- (b) at the end of the entry relating to the expression “Fixed penalty clerk” there shall be added the words “and 75(4)”.
- 109 In section 92 of that Act (persons in public service of Crown) after “16” there shall be inserted “20”.
- 110 In section 93(2) of that Act (persons subject to service discipline) for “4” there shall be substituted “3A”.
- 111 (1) In subsection (1) of section 98 of that Act (interpretation), in paragraph (b) of the definition of “road”, for the words “has the same meaning as in the Roads (Scotland) Act 1984” there shall be substituted the words “means any road within the meaning of the Roads (Scotland) Act 1984 and any other way to which the public has access, and includes bridges over which a road passes,”.
- (2) At the end of subsection (2) of that section there shall be added the word “Act”.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

112 (1) Schedule 3 to the Road Traffic Offenders Act 1988 (fixed penalty offences) shall be amended as follows.

(2) After the entry relating to section 36 of the Road Traffic Act 1988 there shall be inserted—

---

“RTA section 40A	Using vehicle in dangerous condition etc.
RTA section 41A	Breach of requirement as to brakes, steering-gear or tyres.
RTA section 41B	Breach of requirement as to weight: goods and passenger vehicles.”

---

(3) In the entry relating to section 42 of the Road Traffic Act 1988, for the words in column 2 there shall be substituted the words “Breach of other construction and use requirements”.

(4) In the entry relating to section 87(1) of the Road Traffic Act 1988, in column 2 for the word “without” there shall be substituted the words “otherwise than in accordance with”.

113 In Schedule 5 to the Road Traffic Offenders Act 1988 (conditional offer of fixed penalty in relation to certain offences in Scotland), in the entry relating to section 87(2) of the Road Traffic Act 1988, in column (2) for the word “without” there shall be substituted the words “otherwise than in accordance with”.