



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

Disqualification

248 Disqualification where vehicle used to commit offence.

(1) Where a person is convicted of an offence (other than one triable only summarily) and the court which passes sentence is satisfied that a motor vehicle was used for the purposes of committing or facilitating the commission of that offence, the court may order him to be disqualified for such a period as the court thinks fit from holding or obtaining a licence to drive a motor vehicle granted under Part III of the ^{M1}Road Traffic Act 1988.

[^{F1}(2) A court which makes an order under subsection (1) above disqualifying a person from holding or obtaining a licence under Part III of the Road Traffic Act 1988 shall require him to produce—

- (a) any such licence;
- (b) any Community licence (within the meaning of that Part); and
- (c) any counterpart of a licence mentioned in paragraph (a) or (b) above, held by him.]

(3) Any reference in this section to facilitating the commission of an offence shall include a reference to the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

(4) In relation to licences [^{F2}, other than Community licences] which came into force before 1st June 1990, the reference in subsection (2) above to the counterpart of a licence shall be disregarded.

Status: Point in time view as at 20/10/1997.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Disqualification is up to date with all changes known to be in force on or before 24 March 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)

Textual Amendments

- F1** S. 248(2) substituted (1.1.1997) by [S.I. 1996/1974, reg. 5, Sch. 4 para. 6\(2\)](#)
F2 Words in s. 248(4) inserted (1.1.1997) by [1996/1974, reg. 5, Sch. 4 para. 6\(3\)](#)

Marginal Citations

- M1** [1988 c.52.](#)

[^{F3}248A General power to disqualify offenders.

- (1) Subject to subsection (2) below, the court by or before which a person is convicted of an offence may, in addition to or instead of dealing with him in any other way, order him to be disqualified from holding or obtaining a licence to drive a motor vehicle granted under Part III of the ^{M2}Road Traffic Act 1988 for such period as it thinks fit.
- (2) Where the person is convicted of an offence for which the sentence is fixed by law, subsection (1) above shall have effect as if the words “or instead of” were omitted.
- (3) Subsections (2) and (4) of section 248 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.]

Textual Amendments

- F3** Ss. 248A-248C inserted (20.10.1997 for specified purposes and otherwise 1.1.1998) by [1997 c. 48, s. 15\(1\); S.I. 1997/2323, arts. 3, 4, Schs. 1, 2](#)

Marginal Citations

- M2** [1988 c.52.](#)

[^{F4}248B Power to disqualify fine defaulters.

- (1) This section applies where the court has power to impose a period of imprisonment in default of payment of a fine, or any part or instalment of a fine.
- (2) Where this section applies, the court may, instead of imposing such a period of imprisonment as is mentioned in subsection (1) above, order that where the offender is in default he shall be disqualified from holding a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988 for such period not exceeding twelve months as the court thinks fit.
- (3) Where an order has been made under subsection (2) above in default of payment of any fine, or any part or instalment of a fine—
 - (a) on payment of the fine to any person authorised to receive it, the order shall cease to have effect; and
 - (b) on payment of any part of that fine to any such person, the period of disqualification to which the order relates shall be reduced (or, as the case may be, further reduced) by a number of days bearing as nearly as possible the same proportion to such period as the sum so paid bears to the amount of the fine outstanding at the commencement of that period.
- (4) Subsections (2) and (4) of section 248 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.

Status: Point in time view as at 20/10/1997.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Disqualification is up to date with all changes known to be in force on or before 24 March 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)

- (5) Section 19 of the ^{M3}Road Traffic Offenders Act 1988 (proof of disqualification in Scottish proceedings) shall apply to an order under subsection (2) above as it applies to a conviction or extract conviction.
- (6) The Secretary of State may by order made by statutory instrument vary the period specified in subsection (2) above; but no such order shall be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.]

Textual Amendments

F4 Ss. 248A-248C inserted (20.10.1997 for specified purposes and otherwise 1.1.1998) by 1997 c. 48, s. 15(1); S.I. 1997/2323, arts. 3, 4, Schs. 1, 2

Marginal Citations

M3 1988 c.53.

[^{F5}248C Application of sections 248A and 248B.

- (1) The Secretary of State may by order prescribe which courts, or class or classes of courts, may make orders under section 248A or 248B of this Act and, without prejudice to that generality, in relation to district courts an order under this subsection may make provision as respects such courts by reference to whether the court is constituted by a stipendiary magistrate or by one or more justices.
- (2) An order made under subsection (1) above shall be made by statutory instrument and any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Where an order has been made under subsection (1) above, section 248(1) of this Act shall not apply as respects any court, or class or classes of court prescribed by the order.]

Textual Amendments

F5 Ss. 248A-248C inserted (20.10.1997 for specified purposes and otherwise 1.1.1998) by 1997 c. 48, s. 15(1); S.I. 1997/2323, arts. 3, 4, Schs. 1, 2

Status:

Point in time view as at 20/10/1997.

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