



# Serious Organised Crime and Police Act 2005

## 2005 CHAPTER 15

### PART 5

#### MISCELLANEOUS

##### *Vehicle registration and insurance and road traffic offences*

#### **150 Offence in respect of incorrectly registered vehicles**

- (1) After section 43B of the Vehicle Excise and Registration Act 1994 (c. 22) insert—

##### *“Offence in respect of incorrectly registered vehicles*

#### **43C Offence of using an incorrectly registered vehicle**

- (1) A person is guilty of an offence if, on a public road or in a public place, he uses a vehicle to which subsection (2) applies and in respect of which—
- the name and address of the keeper are not recorded in the register, or
  - any of the particulars recorded in the register are incorrect.
- (2) This subsection applies to a vehicle if—
- vehicle excise duty is chargeable in respect of it, or
  - it is an exempt vehicle in respect of which regulations under this Act require a nil licence to be in force.
- (3) It is a defence for a person charged with an offence under subsection (1) to show (as the case may be)—
- that there was no reasonable opportunity, before the material time, to furnish the name and address of the keeper of the vehicle, or

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- (b) that there was no reasonable opportunity, before the material time, to furnish particulars correcting the incorrect particulars.
- (4) It is also a defence for a person charged with an offence under subsection (1) to show—
  - (a) that he had reasonable grounds for believing, or that it was reasonable for him to expect, that the name and address of the keeper or the other particulars of registration (as the case may be) were correctly recorded in the register, or
  - (b) that any exception prescribed in regulations under this section is met.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) The Secretary of State may make regulations prescribing, varying or revoking exceptions for the purposes of subsection (4)(b).
- (7) In this section—
  - “keeper”, in relation to a vehicle, means the person by whom it is kept at the material time;
  - “the register” means the register kept by the Secretary of State under Part 2.”
- (2) In Schedule 3 to the Road Traffic Offenders Act 1988 (c. 53) (fixed penalty offences) after the entry relating to section 43 of the Vehicle Excise and Registration Act 1994 insert—

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“Section 43C of that Act

Using an incorrectly registered vehicle.”

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## **151 Power of constables etc. to require production of registration documents in respect of a vehicle**

After section 28 of the Vehicle Excise and Registration Act 1994 (c. 22) insert—

*“Power of constables etc. to require production of documents*

### **28A Power of constables etc. to require production of registration documents**

- (1) A person using a vehicle in respect of which a registration document has been issued must produce the document for inspection on being so required by—
  - (a) a constable, or
  - (b) a person authorised by the Secretary of State for the purposes of this section (an “authorised person”).
- (2) An authorised person exercising the power conferred by subsection (1) must, if so requested, produce evidence of his authority to exercise the power.
- (3) A person is guilty of an offence if he fails to comply with subsection (1).
- (4) Subsection (3) does not apply if any of the following conditions is satisfied.
- (5) The first condition is that—

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- (a) the person produces the registration document, in person, at a police station specified by him at the time of the request, and
  - (b) he does so within 7 days after the date on which the request was made or as soon as is reasonably practicable.
- (6) The second condition is that—
- (a) the vehicle is subject to a lease or hire agreement,
  - (b) the vehicle is not registered in the name of the lessee or hirer under that agreement and is not required to be so registered,
  - (c) the person produces appropriate evidence of the agreement to the constable or authorised person at the time of the request or he produces such evidence in person, at a police station specified by him at the time of the request—
    - (i) within 7 days after the date of the request, or
    - (ii) as soon as is reasonably practicable, and
  - (d) the person has reasonable grounds for believing, or it is reasonable for him to expect, that the person from whom the vehicle has been leased or hired is able to produce, or require the production of, the registration document.
- (7) In subsection (6)(c) “appropriate evidence” means—
- (a) a copy of the agreement, or
  - (b) such other documentary evidence of the agreement as is prescribed in regulations under this section.
- (8) The third condition is that any exception prescribed in regulations under this section is met.
- (9) Where a requirement is imposed under subsection (1) by an authorised person, a testing station provided under section 52(2) of the Road Traffic Act 1988 may be specified under subsection (5)(a) or (6)(c) instead of a police station.
- (10) A person accused of an offence under this section is not entitled to the benefit of an exception conferred by or under this section unless evidence is adduced that is sufficient to raise an issue with respect to that exception, but where evidence is so adduced it is for the prosecution to prove beyond reasonable doubt that the exception does not apply.
- (11) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (12) The Secretary of State may make regulations—
- (a) prescribing descriptions of evidence for the purposes of subsection (7);
  - (b) prescribing, varying or revoking exceptions for the purposes of subsection (8).
- (13) In this section “registration document” means a registration document issued in accordance with regulations under section 22(1)(e).”

## **152 Power to seize etc. vehicles driven without licence or insurance**

After section 165 of the Road Traffic Act 1988 (c. 52) insert—

**“165A Power to seize vehicles driven without licence or insurance**

- (1) Subsection (5) applies if any of the following conditions is satisfied.
- (2) The first condition is that—
  - (a) a constable in uniform requires, under section 164, a person to produce his licence and its counterpart for examination,
  - (b) the person fails to produce them, and
  - (c) the constable has reasonable grounds for believing that a motor vehicle is or was being driven by the person in contravention of section 87(1).
- (3) The second condition is that—
  - (a) a constable in uniform requires, under section 165, a person to produce evidence that a motor vehicle is not or was not being driven in contravention of section 143,
  - (b) the person fails to produce such evidence, and
  - (c) the constable has reasonable grounds for believing that the vehicle is or was being so driven.
- (4) The third condition is that—
  - (a) a constable in uniform requires, under section 163, a person driving a motor vehicle to stop the vehicle,
  - (b) the person fails to stop the vehicle, or to stop the vehicle long enough, for the constable to make such lawful enquiries as he considers appropriate, and
  - (c) the constable has reasonable grounds for believing that the vehicle is or was being driven in contravention of section 87(1) or 143.
- (5) Where this subsection applies, the constable may—
  - (a) seize the vehicle in accordance with subsections (6) and (7) and remove it;
  - (b) enter, for the purpose of exercising a power falling within paragraph (a), any premises (other than a private dwelling house) on which he has reasonable grounds for believing the vehicle to be;
  - (c) use reasonable force, if necessary, in the exercise of any power conferred by paragraph (a) or (b).
- (6) Before seizing the motor vehicle, the constable must warn the person by whom it appears that the vehicle is or was being driven in contravention of section 87(1) or 143 that he will seize it—
  - (a) in a section 87(1) case, if the person does not produce his licence and its counterpart immediately;
  - (b) in a section 143 case, if the person does not provide him immediately with evidence that the vehicle is not or was not being driven in contravention of that section.

But the constable is not required to give such a warning if the circumstances make it impracticable for him to do so.

- (7) If the constable is unable to seize the vehicle immediately because the person driving the vehicle has failed to stop as requested or has driven off, he may

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seize it at any time within the period of 24 hours beginning with the time at which the condition in question is first satisfied.

- (8) The powers conferred on a constable by this section are exercisable only at a time when regulations under section 165B are in force.
- (9) In this section—
- (a) a reference to a motor vehicle does not include an invalid carriage;
  - (b) a reference to evidence that a motor vehicle is not or was not being driven in contravention of section 143 is a reference to a document or other evidence within section 165(2)(a);
  - (c) “counterpart” and “licence” have the same meanings as in section 164;
  - (d) “private dwelling house” does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

#### **165B Retention etc. of vehicles seized under section 165A**

- (1) The Secretary of State may by regulations make provision as to—
- (a) the removal and retention of motor vehicles seized under section 165A; and
  - (b) the release or disposal of such motor vehicles.
- (2) Regulations under subsection (1) may, in particular, make provision—
- (a) for the giving of notice of the seizure of a motor vehicle under section 165A to a person who is the registered keeper, the owner or the driver of that vehicle;
  - (b) for the procedure by which a person who claims to be the registered keeper or the owner of a motor vehicle seized under section 165A may seek to have it released;
  - (c) for requiring the payment, by the registered keeper, owner or driver of the vehicle, of fees, charges or costs in relation to the removal and retention of such a motor vehicle and to any application for its release;
  - (d) as to the circumstances in which a motor vehicle seized under section 165A may be disposed of;
  - (e) as to the destination—
    - (i) of any fees or charges payable in accordance with the regulations;
    - (ii) of the proceeds (if any) arising from the disposal of a motor vehicle seized under section 165A;
  - (f) for the delivery to a local authority, in circumstances prescribed by or determined in accordance with the regulations, of any motor vehicle seized under section 165A.
- (3) Regulations under subsection (1) must provide that a person who would otherwise be liable to pay any fee or charge under the regulations is not liable to pay it if—
- (a) he was not driving the motor vehicle at the time in question, and
  - (b) he did not know that the vehicle was being driven at that time, had not consented to its being driven and could not, by the taking of reasonable steps, have prevented it from being driven.

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- (4) Regulations under subsection (1) may make different provision for different cases.
- (5) In this section—
- “local authority”—
- (a) in relation to England, means—
- (i) a county council,
  - (ii) the council of a district comprised in an area for which there is no county council,
  - (iii) a London borough council,
  - (iv) the Common Council of the City of London, or
  - (v) Transport for London;
- (b) in relation to Wales, means the council of a county or county borough; and
- (c) in relation to Scotland, means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
- “registered keeper”, in relation to a motor vehicle, means the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994.”

### **153 Disclosure of information about insurance status of vehicles**

- (1) The Secretary of State may by regulations make provision for and in connection with requiring MIIC to make available relevant vehicle insurance information to PITO for it to process with a view to making the processed information available for use by constables.
- (2) “Relevant vehicle insurance information” means information relating to vehicles the use of which has been (but no longer is) insured under a policy of insurance, or security in respect of third party risks, complying with the requirements of Part 6 of the Road Traffic Act 1988 (c. 52).
- (3) The regulations may in particular—
- (a) require all relevant vehicle insurance information or any particular description of such information to be made available to PITO,
  - (b) determine the purposes for which information processed from such information by PITO may be made available for use by constables, and
  - (c) determine the circumstances in which any of the processed information which has been made available for use by constables may be further disclosed by them.
- (4) In this section—
- “information” means information held in any form,
- “MIIC” means the Motor Insurers' Information Centre (a company limited by guarantee and incorporated under the Companies Act 1985 (c. 6) on 8th December 1998), and
- “PITO” means the Police Information Technology Organisation.

## **154 Power to require specimens of breath at roadside or at hospital etc.**

- (1) Section 6D of the Road Traffic Act 1988 (preliminary tests for drink and drugs: arrest) is amended as follows.
- (2) After subsection (1) insert—
  - “(1A) The fact that specimens of breath have been provided under section 7 of this Act by the person concerned does not prevent subsection (1) above having effect if the constable who imposed on him the requirement to provide the specimens has reasonable cause to believe that the device used to analyse the specimens has not produced a reliable indication of the proportion of alcohol in the breath of the person.”
- (3) After subsection (2) insert—
  - “(2A) A person arrested under this section may, instead of being taken to a police station, be detained at or near the place where the preliminary test was, or would have been, administered, with a view to imposing on him there a requirement under section 7 of this Act.”
- (4) Section 7 of that Act (provision of specimens for analysis) is amended as follows.
- (5) For subsection (2) substitute—
  - “(2) A requirement under this section to provide specimens of breath can only be made—
    - (a) at a police station,
    - (b) at a hospital, or
    - (c) at or near a place where a relevant breath test has been administered to the person concerned or would have been so administered but for his failure to co-operate with it.
  - (2A) For the purposes of this section “a relevant breath test” is a procedure involving the provision by the person concerned of a specimen of breath to be used for the purpose of obtaining an indication whether the proportion of alcohol in his breath or blood is likely to exceed the prescribed limit.
  - (2B) A requirement under this section to provide specimens of breath may not be made at or near a place mentioned in subsection (2)(c) above unless the constable making it—
    - (a) is in uniform, or
    - (b) has imposed a requirement on the person concerned to co-operate with a relevant breath test in circumstances in which section 6(5) of this Act applies.
  - (2C) Where a constable has imposed a requirement on the person concerned to co-operate with a relevant breath test at any place, he is entitled to remain at or near that place in order to impose on him there a requirement under this section.
  - (2D) If a requirement under subsection (1)(a) above has been made at a place other than at a police station, such a requirement may subsequently be made at a police station if (but only if)—

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- (a) a device or a reliable device of the type mentioned in subsection (1) (a) above was not available at that place or it was for any other reason not practicable to use such a device there, or
  - (b) the constable who made the previous requirement has reasonable cause to believe that the device used there has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned.”
- (6) In subsection (3) (circumstances in which requirement to provide a specimen of blood or urine may be made)—
  - (a) in paragraph (b) (breath-testing device not available etc.) insert at the beginning “specimens of breath have not been provided elsewhere and”, and
  - (b) in paragraph (bb) (police station breath-testing device has not provided a reliable indication of alcohol level) for “at the police station” substitute “(at the police station or elsewhere)”.
- (7) In section 8 of that Act (choice of specimens of breath) after subsection (2) insert—
 

“(2A) If the person who makes a claim under subsection (2) above was required to provide specimens of breath under section 7 of this Act at or near a place mentioned in subsection (2)(c) of that section, a constable may arrest him without warrant.”
- (8) In section 9(1) of that Act (protection for hospital patients) for “for a laboratory test” substitute “under section 7 of this Act”.
- (9) Section 10 of that Act (detention of persons affected by alcohol or a drug) is amended as follows.
- (10) In subsection (1) (detention at a police station)—
  - (a) for “until it appears to the constable” substitute “(or, if the specimen was provided otherwise than at a police station, arrested and taken to and detained at a police station) if a constable has reasonable grounds for believing”, and
  - (b) for “not be committing” substitute “commit”.
- (11) In subsection (2) (grounds for detention) for “A person shall not be detained in pursuance of this section if it appears to a” substitute “Subsection (1) above does not apply to the person if it ought reasonably to appear to the”.
- (12) After that subsection insert—
 

“(2A) A person who is at a hospital as a patient shall not be arrested and taken from there to a police station in pursuance of this section if it would be prejudicial to his proper care and treatment as a patient.”

**155 Payments by Secretary of State to police authorities in relation to the prevention, detection and enforcement of certain traffic offences**

- (1) The Secretary of State may make payments in respect of the whole or any part of the expenditure of a police authority in relation to—
  - (a) the prevention and detection of offences to which subsection (3) applies, or
  - (b) any enforcement action or proceedings in respect of such offences or any alleged such offences.



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(2) Payments under this section shall be made at such times, in such manner and subject to such conditions as the Secretary of State may determine.

(3) This subsection applies to offences committed in England and Wales under the following provisions—

*Road Traffic Act 1988 (c. 52)*

section 14 (requirements regarding seat belts: adults);

section 15(2) and (4) (restriction on carrying children not wearing seat belts in motor vehicles);

section 42 (motor vehicles and trailers: other construction and use requirements) in relation to the construction and use requirements imposed by the following regulations—

(a) regulations 54, 57, 104 and 110 of the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078);

(b) regulations 11(1) and 25 of the Road Vehicles Lighting Regulations 1989 (S.I. 1989/1796);

section 47 (obligatory test certificates for motor vehicles);

section 87(1) (drivers of motor vehicles to have driving licences);

section 143 (users of motor vehicles to be insured or secured against third-party risks);

section 163 (power of police to stop vehicles);

section 172 (duty to give information as to the identity of driver etc. in certain circumstances);

*Vehicle Excise and Registration Act 1994 (c. 22)*

section 33 (not exhibiting vehicle licence);

section 42 (not fixing registration mark);

section 43 (obscured registration mark);

section 43C (using an incorrectly registered vehicle);

section 59 (regulations: offences) in relation to the requirements imposed by regulation 11 of the Road Vehicles (Display of Registration Marks) Regulations 2001 (S.I. 2001/561).

(4) The Secretary of State may by order amend the list of offences in subsection (3) so as to add, modify or omit any entry.

(5) In subsection (3) “construction and use requirements” has the meaning given by section 41(7) of the Road Traffic Act 1988 (c. 52).

**156 Payments by Scottish Ministers to police authorities etc. in relation to the prevention, detection and enforcement of certain traffic offences**

(1) The Scottish Ministers may make payments in respect of the whole or any part of the expenditure of a police authority or joint police board (within the meaning of the Police (Scotland) Act 1967 (c. 77)) in relation to—

(a) the prevention and detection of offences to which subsection (3) applies, or

(b) any enforcement action or proceedings in respect of such offences or any alleged such offences.

(2) Payments under this section shall be made at such times, in such manner and subject to such conditions as the Scottish Ministers may determine.

- (3) This subsection applies to offences committed in Scotland under the following provisions—

*Road Traffic Act 1988 (c. 52)*

- section 14 (requirements regarding seat belts: adults);
- section 15(2) and (4) (restriction on carrying children not wearing seat belts in motor vehicles);
- section 42 (motor vehicles and trailers: other construction and use requirements) in relation to the construction and use requirements imposed by the following regulations—
  - (a) regulations 54, 57, 104 and 110 of the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078);
  - (b) regulations 11(1) and 25 of the Road Vehicles Lighting Regulations 1989 (S.I. 1989/1796);
- section 47 (obligatory test certificates for motor vehicles);
- section 87(1) (drivers of motor vehicles to have driving licences);
- section 143 (users of motor vehicles to be insured or secured against third-party risks);
- section 163 (power of police to stop vehicles);
- section 172 (duty to give information as to the identity of driver etc. in certain circumstances);

*Vehicle Excise and Registration Act 1994 (c. 22)*

- section 33 (not exhibiting vehicle licence);
- section 42 (not fixing registration mark);
- section 43 (obscured registration mark);
- section 43C (using an incorrectly registered vehicle);
- section 59 (regulations: offences) in relation to the requirements imposed by regulation 11 of the Road Vehicles (Display of Registration Marks) Regulations 2001 (S.I. 2001/561).

- (4) The Scottish Ministers may by order amend the list of offences in subsection (3) so as to add, modify or omit any entry.
- (5) In subsection (3) “construction and use requirements” has the meaning given by section 41(7) of the Road Traffic Act 1988 (c. 52).
- (6) In section 95 of the Road Traffic Offenders Act 1988 (c. 53) (destination of fines imposed in respect of road traffic offences etc.) insert—

“(3) There shall be paid into the Scottish Consolidated Fund all fixed penalties imposed in respect of offences, committed in Scotland, to which section 156(3) of the Serious Organised Crime and Police Act 2005 applies.”