Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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Road Safety Act 2006

2006 CHAPTER 49

An Act to make provision about road traffic, registration plates, vehicle and driver information, hackney carriages and private hire vehicles, and trunk road picnic areas. [8th November 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Payments for road safety

1 Road safety grants

For section 40 of the Road Traffic Act 1988 (c. 52) (power to subsidise promotion of road safety by bodies other than local authorities) substitute—

"**40 Road safety grants**

(1) A national transport authority may make payments to any local authority or any other authority or body for meeting the whole or part of the capital or running costs of any measures for promoting road safety.

(2) A "national transport authority" means—
(a) the Secretary of State acting with the approval of the Treasury, or
(b) the National Assembly for Wales."

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PROSPECTIVE

2 Application of surplus income from safety camera enforcement

(1) Section 38 of the Vehicles (Crime) Act 2001 (c. 3) (unified power for Secretary of State to fund speed cameras etc.) is amended as follows.

(2) In subsections (3) and (4), for "this section" substitute " subsection (1) ".

(3) After subsection (4) insert—

"(4A) The Secretary of State may by regulations make provision for making to public authorities for road safety purposes payments calculated by reference to any amount by which—

(a) the amount of the sums paid into the Consolidated Fund in consequence of the commission of offences to which subsection (2) applies and which are detected by cameras, exceeds

(b) the amount of any payments made under subsection (1)."

Fixed penalties

3 Graduated fixed penalties

(1) The Road Traffic Offenders Act 1988 (c. 53) is amended as follows.

(2) In section 53 (amount of fixed penalty), for subsections (2) and (3) substitute—

"(2) Any order made under subsection (1)(a) above in relation to an offence may make provision for the fixed penalty for the offence to be different depending on the circumstances, including (in particular)—

(a) the nature of the contravention or failure constituting the offence,

(b) how serious it is,

(c) the area, or sort of place, where it takes place, and

(d) whether the offender appears to have committed any offence or offences of a description specified in the order during a period so specified."

(3) In section 84(2) (regulations about surcharge notices), for paragraphs (b) and (c) substitute "and

(b) the amount of the penalty stated in the offer is less than the fixed penalty applicable in the circumstances,".

Commencement Information

I1 S. 3 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(a)**

4 Graduated fixed penalty points

(1) Section 28 of the Road Traffic Offenders Act 1988 (penalty points to be attributed to an offence) is amended as follows.

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(2) For subsection (3) substitute—

"(3) For the purposes of sections 57(5) and 77(5) of this Act, the number of penalty points to be attributed to an offence is—

(a) where both a range of numbers and a number followed by the words "(fixed penalty)" is shown in the last column of Part 1 of Schedule 2 to this Act in relation to the offence, that number,

(b) where a range of numbers followed by the words "or appropriate penalty points (fixed penalty)" is shown there in relation to the offence, the appropriate number of penalty points for the offence, and

(c) where only a range of numbers is shown there in relation to the offence, the lowest number in the range.

(3A) For the purposes of subsection (3)(b) above the appropriate number of penalty points for an offence is such number of penalty points as the Secretary of State may by order made by statutory instrument prescribe.

(3B) An order made under subsection (3A) above in relation to an offence may make provision for the appropriate number of penalty points for the offence to be different depending on the circumstances, including (in particular)—

(a) the nature of the contravention or failure constituting the offence,

(b) how serious it is,

(c) the area, or sort of place, where it takes place, and

(d) whether the offender appears to have committed any offence or offences of a description specified in the order during a period so specified."

(3) In subsection (7), in paragraph (b), after "penalty)" insert " or the words "or appropriate penalty points (fixed penalty)" .

(4) Before the word "and" at the end of that paragraph insert—

"(ba) substitute the words "or appropriate penalty points (fixed penalty)" for a number together with the words "(fixed penalty)", or substitute a number together with the words "(fixed penalty)" for the words "or appropriate penalty points (fixed penalty)", in relation to an offence in the last column of Part 1 or 2,".

(5) After subsection (8) insert—

"(8A) Before making any order under subsection (3A) above the Secretary of State must consult with such representative organisations as he thinks fit."

(6) In subsection (9), for "subsection (7) above" substitute " this section ".

Commencement Information

I2 S. 4 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(a)**

5 Giving of fixed penalty notices by vehicle examiners

Schedule 1 contains provision about the giving of fixed penalty notices by vehicle examiners and connected matters.

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Commencement Information

I3 S. 5 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

6 Goods vehicles operator licensing

(1) The Goods Vehicles (Licensing of Operators) Act 1995 (c. 23) is amended as follows.

(2) In subsection (1) of section 9 (duty of applicant for operator's licence to notify traffic commissioner of notifiable conviction subsequent to making of application), insert at the end " or there is issued a notifiable fixed penalty notice within the meaning given in paragraph 7 of that Schedule. "

(3) In subsection (3)(b) of that section (offence of failing to notify conviction of transport manager), insert at the end " or the issue to the transport manager of a fixed penalty notice or conditional offer under Part 3 of the Road Traffic Offenders Act 1988 in respect of such an offence. "

(4) In subsection (1) of section 26 (revocation, suspension and curtailment of operators' licences), after paragraph (c) insert—

"(ca) that during those five years a fixed penalty notice or conditional offer has been issued under Part 3 of the Road Traffic Offenders Act 1988 to the licence-holder in respect of an offence within sub-paragraph (i) of paragraph (c) or to a servant or agent of the licence-holder in respect of an offence within sub-paragraph (ii) of that paragraph;".

(5) In paragraph (d) of that subsection, insert at the end " or an issue of a fixed penalty notice or conditional offer under Part 3 of the Road Traffic Offenders Act 1988 to the licence-holder or a servant or agent of his in respect of such an offence; ".

(6) In paragraph 1 of Schedule 2 (information about, and convictions of, applicants for and holders of operators' licences), after paragraph (f) insert—

"(fa) particulars of any notifiable fixed penalty notices which have been issued during those five years;".

(7) After paragraph 6 of that Schedule insert—

" **"Notifiable fixed penalty notices"**

7 In paragraph 1(fa) "notifiable fixed penalty notice" means any fixed penalty notice or conditional offer under Part 3 of the Road Traffic Offenders Act 1988—

(a) issued to a relevant person in respect of an offence such as is mentioned in paragraph 5, or

(b) issued to a servant or agent of a relevant person in respect of an offence within paragraph 4(b)."

Commencement Information

I4 S. 6 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(c)**

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7 Public passenger vehicle licensing

(1) The Public Passenger Vehicles Act 1981 (c. 14) is amended as follows.

(2) In section 19 (duty of applicant for PSV operator's licence to inform traffic commissioners of relevant convictions etc.), after subsection (2) insert—

"(2A) For the purposes of subsections (1) and (2) above the issue to a person of a fixed penalty notice or conditional offer under Part 3 of the Road Traffic Offenders Act 1988 in respect of an offence prescribed for the purposes of this Act is to be treated as if it were a relevant conviction of him."

(3) In sub-paragraph (1) of paragraph 1 of Schedule 3 (supplementary provisions as to qualifications for PSV operator's licence), before the word "and" at the end of paragraph (a) insert—

"(aa) relevant fixed penalty notices issued to him and to his employees and agents;".

(4) In sub-paragraph (2) of that paragraph, before the word "and" at the end of paragraph (a) insert—

"(aa) relevant fixed penalty notices issued to the company's officers, employees and agents;".

(5) After that sub-paragraph insert—

"(2A) In sub-paragraphs (1)(aa) and (2)(aa) above "relevant fixed penalty notice" means a fixed penalty notice or conditional offer issued under Part 3 of the Road Traffic Offenders Act 1988 in respect of an offence prescribed for the purposes of this Act."

Commencement Information
I5 S. 7 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(c)**

New system of endorsement

8 Driving record

In the Road Traffic Offenders Act 1988 (c. 53), after section 97 insert—

"97A Meaning of "driving record"

(1) In this Act "driving record", in relation to a person, means a record in relation to the person maintained by the Secretary of State and designed to be endorsed with particulars relating to offences committed by the person under the Traffic Acts.

(2) The Secretary of State may make arrangements for the following persons to have access, by such means as the Secretary of State may determine, to information held on a person's driving record—

(a) courts,
(b) constables,
(c) fixed penalty clerks,

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(d) the person in respect of whom the record is maintained and persons authorised by him, and

(e) other persons prescribed in regulations made by the Secretary of State.

(3) The power to make regulations under subsection (2)(e) above shall be exercisable by statutory instrument.

(4) No regulations shall be made under subsection (2)(e) above unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament."

Commencement Information

I6 S. 8 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(a)**

9 Unlicensed and foreign drivers

(1) The Road Traffic Offenders Act 1988 is amended as follows.

(2) In section 44 (endorsement of licences)—

(a) after subsection (3) insert—

"(3A) Where a person who is not the holder of a licence is convicted of an offence involving obligatory endorsement, subsection (1) above applies as if the reference to the counterpart of any licence held by him were a reference to his driving record.", and

(b) for the heading substitute " Orders for endorsement ".

(3) After that section insert—

"**44A Endorsement of driving record in accordance with order**

(1) Where the court orders the endorsement of a person's driving record with any particulars or penalty points it must send notice of the order to the Secretary of State.

(2) On receiving the notice, the Secretary of State must endorse those particulars or penalty points on the person's driving record.

(3) A notice sent by the court to the Secretary of State in pursuance of this section must be sent in such manner and to such address and contain such particulars as the Secretary of State may require."

(4) In section 54 (notices on-the-spot etc.), after subsection (5) insert—

"(5A) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, and the person is not the holder of a licence, the constable or vehicle examiner may only give him a fixed penalty notice under subsection (2) above in respect of the offence if the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence.

(5B) Subsection (5C) below applies where—

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(a) the offence appears to the constable or vehicle examiner to involve obligatory endorsement,

(b) the person concerned is not the holder of a licence, and

(c) the constable or vehicle examiner is unable to satisfy himself, by accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence.

(5C) Where this subsection applies, the constable or vehicle examiner may give the person a notice stating that if—

(a) he delivers the notice in accordance with subsection (5D) below, and

(b) the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of the offence,

he will then be given a fixed penalty notice in respect of the offence.

(5D) Delivery must—

(a) if the notice is given by a constable, be made in person, within seven days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or

(b) if the notice is given by a vehicle examiner, be made (either by post or in person), within fourteen days after the notice is given, to the Secretary of State at the place specified in the notice.

(5E) If a person to whom a notice has been given under subsection (5C) above delivers the notice in accordance with subsection (5D) above, and the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of the offence, that person must give him a fixed penalty notice in respect of the offence to which the notice under subsection (5C) relates."

(5) After section 57 insert—

"**57A Endorsement of driving records without hearings**

(1) Subject to subsection (2) below, where a person who is not the holder of a licence has been given a fixed penalty notice under section 54 of this Act in respect of an offence involving obligatory endorsement, his driving record may be endorsed in accordance with this section without any order of a court.

(2) A person's driving record may not be endorsed under this section if at the end of the suspended enforcement period—

(a) he has given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of the offence to which the fixed penalty notice relates, and

(b) the fixed penalty has not been paid in accordance with this Part of this Act.

(3) If payment of the fixed penalty is made before the end of the suspended enforcement period and the person to whom the payment is made is the fixed

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penalty clerk, the fixed penalty clerk must send to the Secretary of State notice of the relevant particulars which are to be endorsed on the person's driving record.

(4) Where any sum determined by reference to the fixed penalty is registered under section 71 of this Act for enforcement against the person as a fine in a case where the fixed penalty is required to be paid to the fixed penalty clerk, the fixed penalty clerk must send to the Secretary of State notice of the relevant particulars which are to be endorsed on the person's driving record—
- (a) if he is himself the person who registers the sum, on the registration of that sum, and
- (b) in any other case, on being notified of the registration by the person who registers that sum.

(5) The Secretary of State must endorse the relevant particulars on the person's driving record if—
- (a) he receives notice of them under subsection (3) or (4) above,
- (b) the fixed penalty is paid to him before the end of the suspended enforcement period, or
- (c) in a case where the fixed penalty is required to be paid to the Secretary of State, any sum determined by reference to the fixed penalty is registered under section 71 of this Act for enforcement against the person as a fine.

(6) References in this section to the relevant particulars are to—
- (a) particulars of the offence, including the date when it was committed, and
- (b) the number of penalty points to be attributed to the offence.”

(6) Schedule 2 contains further amendments about the endorsement of driving records in the case of unlicensed and certain foreign drivers.

Commencement Information

I7 S. 9 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

VALID FROM 08/06/2015

10 All drivers

(1) The Road Traffic Offenders Act 1988 (c. 53) (as amended by section 9 and Schedule 2) is amended as follows.

(2) In section 44 (orders for endorsement)—
- (a) in subsection (1), for “the counterpart of any licence held by him” substitute “ his driving record ”, and
- (b) omit subsection (3A).

(3) Section 54 (notices on-the-spot etc.) is amended as follows.

(4) For subsections (3) to (5E) substitute—

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"(3) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, the constable or vehicle examiner may only give him a fixed penalty notice under subsection (2) above in respect of the offence if—

(a) the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence, and

(b) in the case of a person who is the holder of a licence, he produces it for inspection by the constable or vehicle examiner and surrenders it to him to be retained and dealt with in accordance with this Part of this Act.

(4) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, subsection (5) below applies if—

(a) the constable or vehicle examiner is unable to satisfy himself, by accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence, or

(b) in the case of a person who is the holder of a licence, he does not produce it for inspection by the constable or vehicle examiner.

(5) Where this subsection applies, the constable or vehicle examiner may give the person a notice stating that if—

(a) he delivers the notice and (if he is the holder of a licence) his licence in accordance with subsection (5A) below, and

(b) the requirements of subsection (5B) below are met,

he will then be given a fixed penalty notice in respect of the offence.

(5A) Delivery must—

(a) if the notice is given by a constable, be made in person, within seven days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or

(b) if the notice is given by a vehicle examiner, be made (either by post or in person), within fourteen days after the notice is given, to the Secretary of State at the place specified in the notice.

(5B) If a person to whom a notice has been given under subsection (5) above delivers the notice and (if he is the holder of a licence) his licence in accordance with subsection (5A) above, and the following requirements are met, that is—

(a) the person to whom the notice is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under section 35 of this Act if he were convicted of the offence, and

(b) if he is the holder of a licence, it is delivered to be retained and dealt with in accordance with this Part of this Act,

the person to whom the notice is delivered must give him a fixed penalty notice in respect of the offence to which the notice under subsection (5) above relates."

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(5) In subsection (6), for "(4) or (5C)" substitute " (5) ".

(6) In subsection (7), omit "and a counterpart of a licence".

(7) Omit section 57 (endorsement of counterparts without hearings).

(8) Section 57A (endorsement of driving records without hearings) is amended as follows.

(9) In subsection (1), omit "who is not the holder of a licence".

(10) In subsection (3), at the end insert " and return to that person any licence surrendered by him under section 54 of this Act. "

(11) In subsection (4), after "record" insert " and return to that person any licence surrendered by him under section 54 of this Act ".

(12) Schedule 3 contains further amendments about the endorsement of driving records in the case of all drivers.

Deposits and prohibition on driving

11 Financial penalty deposits

(1) In the Road Traffic Offenders Act 1988 (c. 53), after Part 3 insert—

"**PART 3A**

FINANCIAL PENALTY DEPOSITS

90A **Power to impose financial penalty deposit requirement**

(1) A constable or vehicle examiner may impose a financial penalty deposit requirement on a person on any occasion if the conditions in this section are satisfied.

(2) The constable or vehicle examiner must have reason to believe—
  (a) that the person is committing or has on that occasion committed an offence relating to a motor vehicle, and
  (b) that the person, the offence and the circumstances in which the offence is committed are of a description specified in an order made by the Secretary of State.

(3) The person must be—
  (a) given written notification that it appears likely that proceedings will be brought against him in respect of the offence, or
  (b) (if the offence is a fixed penalty offence) either given such notification or given a fixed penalty notice (or, in Scotland, handed a conditional offer) in respect of the offence.

(4) The person must fail to provide a satisfactory address; and for this purpose "a satisfactory address" is an address in the United Kingdom at which the

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constable or vehicle examiner considers it likely that it would be possible to find the person whenever necessary to do so in connection with the proceedings, fixed penalty notice or conditional offer.

(5) The person who is to impose the financial penalty deposit requirement—
  (a) if a constable, must be in uniform, and
  (b) if a vehicle examiner, must produce his authority.

90B Financial penalty deposit requirement

(1) For the purposes of this Part of this Act a financial penalty deposit requirement is a requirement to make a payment of the appropriate amount to the Secretary of State—
  (a) in a manner specified in an order made by him, and
  (b) either immediately or within the relevant period.

(2) In this Part of this Act "the appropriate amount", in relation to an offence and a person, is an amount specified in relation to the offence in an order made by the Secretary of State; and different amounts may be so specified—
  (a) by reference to whether the person is given notification that it appears likely that proceedings will be brought against him or given a fixed penalty notice (or handed a conditional offer), and
  (b) otherwise by reference to the circumstances of the offence.

(3) In this Part of this Act "the relevant period" means—
  (a) if the person was given a fixed penalty notice and proceedings are not brought in respect of the offence by virtue of this Act before the end of the suspended enforcement period, the suspended enforcement period,
  (b) if he was handed a conditional offer and proceedings are not brought in respect of the offence by virtue of this Act before the end of the period of 28 days following the date on which the conditional offer was given or any longer period specified in the conditional offer, that period, and
  (c) otherwise, the period ending with the person being charged with the offence.

90C Making of payment in compliance with requirement

(1) This section applies where a person on whom a financial penalty deposit requirement is imposed in respect of an offence makes a payment of the appropriate amount in accordance with section 90B(1) of this Act (and any order made under it).

(2) On payment by the person of the appropriate amount the person by whom the payment is received must issue him with a written receipt for the payment specifying the effect of the following provisions of this section.

(3) If the person was handed a conditional offer—
  (a) the person is entitled to give notice requesting a hearing in respect of the offence, and

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(b) the written receipt must specify the manner in which such notice is to be given.

(4) In a case where—

(a) a fixed penalty notice relating to the offence has been given to the person or a conditional offer so relating has been handed to him,

(b) the person does not give notice requesting a hearing in respect of the offence before the end of the relevant period in the appropriate manner, and

(c) proceedings are not brought in respect of the offence by virtue of this Act,

subsection (6) below applies.

(5) In subsection (4)(b) above "the appropriate manner" means—

(a) if the person was given a fixed penalty notice, the manner specified in the fixed penalty notice, and

(b) if he was handed a conditional offer, the manner specified in the written receipt under subsection (2) above.

(6) Where this subsection applies, the Secretary of State must—

(a) apply so much of the payment as does not exceed the amount of the fixed penalty in or towards payment of the fixed penalty, and

(b) take the appropriate steps to make any appropriate refund to the person.

(7) In any other case—

(a) if the person is informed that he is not to be prosecuted for the offence, is acquitted of the offence or is convicted but not fined in respect of it, or the prosecution period comes to an end without a prosecution having been commenced against him in respect of it, subsection (9) below applies, and

(b) if a fine is imposed on the person in respect of the offence (otherwise than as a result of a conviction obtained on a prosecution commenced after the end of the prosecution period), subsection (10) below applies.

(8) In this Part of this Act "the prosecution period" means the period of twelve months beginning with the imposition of the financial penalty deposit requirement or, if shorter, any period after which no prosecution may be commenced in respect of the offence.

(9) Where this subsection applies, the Secretary of State must take the appropriate steps to make the appropriate refund to the person.

(10) Where this subsection applies, the Secretary of State must—

(a) apply so much of the payment as does not exceed the amount of the fine in or towards payment of the fine, and

(b) take the appropriate steps to make any appropriate refund to the person.

(11) Where the Secretary of State is required by this section to take the appropriate steps to make an appropriate refund, he must take such steps to trace the person

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and to make the refund to him, by such means, as are specified in an order made by the Secretary of State.

(12) In this Part of this Act "the appropriate refund", in any case, is a refund of—

(a) where subsection (6) above applies, so much of the payment as exceeds the amount of the fixed penalty,

(b) where subsection (9) above applies, the amount of the payment, and

(c) where subsection (10) above applies, so much of the amount of the payment as exceeds the amount of the fine,

together with interest calculated in accordance with provision made by order made by the Treasury.

90D Prohibition on driving on failure to make payment

(1) This section applies where a person on whom a financial penalty deposit requirement is imposed does not make an immediate payment of the appropriate amount in accordance with section 90B(1) of this Act (and any order made under it).

(2) The constable or vehicle examiner by whom the requirement was imposed may prohibit the driving on a road of any vehicle of which the person was in charge at the time of the offence by giving to the person notice in writing of the prohibition.

(3) The prohibition—

(a) shall come into force as soon as the notice is given, and

(b) shall continue in force until the happening of whichever of the events in subsection (4) below occurs first.

(4) Those events are—

(a) the person making a payment of the appropriate amount in accordance with section 90B(1) of this Act (and any order made under it) at any time during the relevant period,

(b) (where a fixed penalty notice was given, or a conditional offer handed, to the person in respect of the offence) payment of the fixed penalty,

(c) the person being convicted or acquitted of the offence,

(d) the person being informed that he is not to be prosecuted for the offence, and

(e) the coming to an end of the prosecution period.

(5) A constable or vehicle examiner may by direction in writing require the person to remove the vehicle to which the prohibition relates (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition does not apply to the removal of the vehicle (or trailer) in accordance with the direction.

(6) A person who—

(a) drives a vehicle in contravention of a prohibition under this section,

(b) causes or permits a vehicle to be driven in contravention of such a prohibition, or

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(c) fails to comply within a reasonable time with a direction under subsection (5) above,

is guilty of an offence.

(7) The Secretary of State may by order provide for exceptions from subsection (6) above.

(8) Schedule 4 to the Road Safety Act 2006 makes provision about the immobilisation of vehicles the driving of which has been prohibited under this section and about their removal and disposal.

90E Orders about financial penalty deposits

(1) Any power conferred by section 90A, 90B, 90C or 90D of this Act on the Secretary of State or the Treasury to make an order shall be exercisable by statutory instrument.

(2) Before making an order under any of those sections the Secretary of State or the Treasury must consult with such representative organisations as appear appropriate.

(3) An order under any of those sections may make different provision for different cases.

(4) No order shall be made under section 90B(2) of this Act unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

(5) A statutory instrument containing an order under section 90A, 90B(1), 90C or 90D of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

90F Financial penalty deposits: interpretation

In sections 90A to 90D of this Act—

"the appropriate amount" has the meaning given by section 90B(2) of this Act,

"the appropriate refund" has the meaning given by section 90C(12) of this Act,

"conditional offer" means a notice under section 75(3)(a) of this Act,

"financial penalty deposit requirement" has the meaning given by section 90B(1) of this Act,

"fixed penalty notice" has the meaning given by section 52 of this Act,

"fixed penalty offence" is to be construed in accordance with section 51 of this Act,

"the prosecution period" has the meaning given by section 90C(8) of this Act,

"the relevant period" has the meaning given by section 90B(3) of this Act,

"suspended enforcement period" is to be construed in accordance with section 52(3)(a) of this Act, and

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"vehicle examiner" means an examiner appointed under section 66A of the Road Traffic Act 1988."

(2) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to section 67 of that Act insert—

"Section 90D(6) of this Act	Driving, etc., vehicle in contravention of prohibition for failure to pay financial penalty deposit, etc.	Summarily.	Level 5 on the standard scale.	"

(3) Schedule 4 makes provision about the immobilisation of vehicles the driving of which has been prohibited and about their removal and disposal.

Commencement Information
I8 S. 11 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

12 Prohibition on driving: immobilisation, removal and disposal of vehicles

(1) In section 99A of the Transport Act 1968 (c. 73) (powers to prohibit driving of vehicles in connection with contravention of provisions about drivers' hours), after subsection (5) insert—

"(6) Schedule 4 to the Road Safety Act 2006 makes provision about the immobilisation of vehicles the driving of which has been prohibited under subsection (1) of this section and about their removal and disposal."

(2) In section 3 of the Road Traffic (Foreign Vehicles) Act 1972 (c. 27) (prohibition on driving of foreign vehicles: enforcement provisions), after subsection (7) insert—

"(8) Schedule 4 to the Road Safety Act 2006 makes provision about the immobilisation of vehicles the driving of which has been prohibited under section 1 of this Act and about their removal and disposal."

(3) In section 73 of the Road Traffic Act 1988 (c. 52) (prohibition on driving of unfit or overloaded vehicles: supplementary provisions), after subsection (4) insert—

"(5) Schedule 4 to the Road Safety Act 2006 makes provision about the immobilisation of vehicles the driving of which has been prohibited under section 69 or 70 of this Act and about their removal and disposal."

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Commencement Information

I9 S. 12 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(c)**

Drink-driving etc.

VALID FROM 01/06/2013

13 High risk offenders: medical enquiries following disqualification

(1) In section 88 of the Road Traffic Act 1988 (exceptions to requirement to hold driving licence), after subsection (2) insert—

"(2A) Subsection (1) above does not apply by virtue of an application mentioned in paragraph (b) of that subsection having been received by the Secretary of State if—

(a) the application was made as a result of, or in anticipation of, the expiry of a disqualification relevant to the licence applied for,

(b) either the nature of the disqualification or its imposition within a particular period after an earlier disqualification amounted to circumstances prescribed under subsection (4) of section 94 of this Act (disqualification: high risk offenders), and

(c) the Secretary of State has notified the applicant that, because of that, he will be subject to a requirement under paragraph (a) or (b) of subsection (5) of that section."

(2) The amendment made by subsection (1) does not apply where the conviction in respect of which the disqualification was ordered was imposed before the coming into force of that subsection.

14 Period of endorsement for failure to allow specimen to be tested

In section 45(7) of the Road Traffic Offenders Act 1988 (c. 53) (effect of endorsement: period for which effective), after paragraph (b) insert "or

(c) under section 7A(6) of that Act (failing to allow a specimen to be subjected to laboratory test),".

Commencement Information

I10 S. 14 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(a)**

PROSPECTIVE

15 Alcohol ignition interlocks

(1) In the Road Traffic Offenders Act 1988, after section 34C insert—

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"34D Reduced disqualification period: alcohol ignition interlock programme orders

(1) This section applies where—

(a) a person is convicted of a relevant drink offence by or before a court,

(b) he has committed another relevant drink offence at any time during the period of ten years ending with the date of the conviction,

(c) the court makes an order under section 34 of this Act but does not make an order under section 34A of this Act, and

(d) the period stated by the court as that for which, apart from this section, he would be disqualified ("the unreduced period") is not less than two years.

(2) In this section "relevant drink offence" means—

(a) an offence under paragraph (a) of subsection (1) of section 3A of the Road Traffic Act 1988 (causing death by careless driving when unfit to drive through drink) committed when unfit to drive through drink,

(b) an offence under paragraph (b) of that subsection (causing death by careless driving with excess alcohol),

(c) an offence under paragraph (c) of that subsection (failing to provide a specimen) where the specimen is required in connection with drink or consumption of alcohol,

(d) an offence under section 4 of that Act (driving or being in charge when under influence of drink) committed by reason of unfitness through drink,

(e) an offence under section 5(1) of that Act (driving or being in charge with excess alcohol),

(f) an offence under section 7(6) of that Act (failing to provide a specimen) committed in the course of an investigation into an offence within any of the preceding paragraphs, or

(g) an offence under section 7A(6) of that Act (failing to allow a specimen to be subjected to a laboratory test) in the course of an investigation into an offence within any of the preceding paragraphs.

(3) Where this section applies, the court may specify a lesser period of disqualification ("the reduced period") if it also makes an order (an "alcohol ignition interlock programme order") requiring the offender to comply with the alcohol ignition interlock conditions.

(4) The difference between the unreduced period and the reduced period shall be a period specified in the order of—

(a) not less than 12 months, and

(b) not more than one half of the unreduced period.

(5) If the offender contravenes the alcohol ignition interlock conditions, a further order under section 34 disqualifying him for the rest of the unreduced period is to be treated as having been made by the court immediately before the contravention.

(6) "The alcohol ignition interlock conditions" are that the offender—

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(a) must participate fully in an approved alcohol ignition interlock programme specified in the order during such part of the unreduced period as is so specified, and

(b) during the part of that period following the reduced period, must not drive a motor vehicle unless it is fitted with an alcohol ignition interlock in good working order and must not drive a motor vehicle which is so fitted when not using the alcohol ignition interlock properly.

(7) A court shall not make an alcohol ignition interlock programme order in the case of an offender unless—

(a) the court is satisfied that a place on the approved alcohol ignition interlock programme specified in the order will be available for the offender,

(b) the offender appears to the court to be of or over the age of 17,

(c) the court has informed the offender (orally or in writing and in ordinary language) of the effect of the order and the amount of the fees which he is required to pay for the programme and when he must pay them, and

(d) the offender has agreed that the order should be made.

(8) For the purposes of this section an "approved alcohol ignition interlock programme" is a programme approved by the appropriate national authority and involving the provision of an alcohol ignition interlock for use by the offender, training in its use and other education and counselling relating to the consumption of alcohol and driving.

(9) For the purposes of this section "alcohol ignition interlock" means a device—

(a) of a type approved by the Secretary of State, and

(b) designed to be fitted to a motor vehicle with the purpose of preventing the driving of the vehicle by a person who does not, both before starting driving the vehicle and at regular intervals while driving it, provide specimens of breath in which the proportion of alcohol is likely not to exceed the limit specified in subsection (10) below.

(10) That limit is 9 microgrammes of alcohol in 100 millilitres of breath or such other proportion of alcohol to breath as the Secretary of State may by regulations prescribe.

(11) For the purposes of this section an offender uses an alcohol ignition interlock properly if (and only if) he is complying with all the instructions given to him about its use as part of the approved alcohol ignition interlock programme.

(12) Where an alcohol ignition interlock is fitted to a motor vehicle as part of an approved alcohol ignition interlock programme relating to an offender, a person commits an offence if—

(a) he interferes with the alcohol ignition interlock with intent to cause it not to function or not to function properly, or

(b) he is a person other than the offender and provides or attempts to provide a specimen of breath for the purposes of the alcohol ignition interlock with intent to enable the driving (or continued driving) of the vehicle by the offender.

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34E Certificates of failing fully to participate

(1) An offender shall be regarded for the purposes of section 34D of this Act as not fully participating in an approved alcohol ignition interlock programme if (and only if) a certificate that that is so is received by the proper officer of the supervising court.

(2) A certificate under subsection (1) above may be given if (and only if) the offender has failed—

(a) to make due payment of fees for the programme,

(b) to attend for training, education or counselling forming part of the programme in accordance with the programme provider's reasonable instructions,

(c) to attend at a place specified by the programme provider for the monitoring and maintenance of the alcohol ignition interlock, at a time specified by the programme provider or a person with whom the programme provider has made arrangements for its monitoring and maintenance, or

(d) to comply with any other reasonable requirement of the programme provider.

(3) A certificate under subsection (1) above is to be given by the programme provider and shall be in such form, and contain such particulars, as may be prescribed by, or determined in accordance with, regulations made by the appropriate national authority.

(4) Where a programme provider decides to give a certificate under subsection (1) above, he shall give written notice of the decision to the offender as soon as possible.

(5) An offender to whom a notice is given under subsection (4) above may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court, the High Court of Justiciary or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the programme provider has given the certificate under subsection (1) above in contravention of subsection (2) above.

(6) If the court grants the application, section 34D of this Act shall have effect as if the certificate had not been duly received by the proper officer of the supervising court.

(7) A notice under subsection (4) above shall specify the ground on which it is given; and the appropriate national authority may by regulations make provision as to the form of notices under that subsection and as to the circumstances in which they are to be treated as given.

(8) Where the proper office of a court receives a certificate under subsection (1) above, or a court grants an application under subsection (5) above, the proper officer or court must send notice of that fact to the Secretary of State; and the notice must be sent in such manner and to such address, and must contain such particulars, as the Secretary of State may determine.

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34F Approval of programmes

(1) If an application is made to the appropriate national authority for the approval of a programme for the purposes of section 34D of this Act, the appropriate national authority must decide whether to grant or refuse the application.

(2) In reaching that decision the appropriate national authority must have regard to—

(a) the nature of the programme, and

(b) whether the programme provider is an appropriate person to provide the programme and administer its provision efficiently and effectively,

and may take into account any recommendations made by any persons appointed to consider the application.

(3) A programme may be approved subject to conditions specified by the appropriate national authority.

(4) An approval of a programme is for the period specified by the appropriate national authority (which must not exceed seven years), subject to withdrawal of approval.

(5) Regulations made by the appropriate national authority may make provision in relation to the approval of programmes and may, in particular, include provision—

(a) in relation to the making of applications for approval,

(b) for the payment in respect of applications for approval, or of approvals, (or of both) of fees of such amounts as are prescribed by the regulations,

(c) specifying the maximum fees that a person may be required to pay for a programme and by when they are to be paid,

(d) for the monitoring of programmes and programme providers,

(e) in relation to withdrawing approval,

(f) for an appeal to lie to the Transport Tribunal against a refusal of an application for approval, the imposition of conditions on the grant of such an application or the withdrawal of approval, and

(g) authorising the appropriate national authority to make available (with or without charge) information about programmes and programme providers.

34G Provisions supplementary to sections 34D to 34F

(1) The appropriate national authority may issue guidance to programme providers, or to any category of programme provider, as to the conduct of programmes approved for the purposes of section 34D of this Act; and—

(a) programme providers shall have regard to any guidance given to them under this subsection, and

(b) in determining for the purposes of section 34E of this Act whether any instructions or requirements of a programme provider were reasonable, a court shall have regard to any guidance given to him under this subsection.

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(2) The Secretary of State may by regulations make provision—

(a) amending section 34D(1)(b) of this Act by substituting for the period for the time being specified there a different period,

(b) amending section 34D(1)(d) of this Act by substituting for the period for the time being specified there a different period, or

(c) amending section 34D(4) of this Act by substituting for the period for the time being specified there a different period, or by substituting for the fraction of the unreduced period for the time being specified there a different fraction of that period, (or by doing both).

(3) In sections 34D to 34F of this Act and this section—

"appropriate national authority" means (as respects Wales) the National Assembly for Wales and (otherwise) the Secretary of State;

"contravention" includes failure to comply;

"programme provider", in relation to an alcohol ignition interlock programme, means the person by whom it is, or is to be, provided;

"proper officer" means—

(a) in relation to a magistrates' court in England and Wales, the designated officer for the court, and

(b) otherwise, the clerk of the court;

"relevant local court", in relation to an alcohol ignition interlock programme order in the case of an offender, means—

(a) in England and Wales, a magistrates' court acting for the local justice area in which the offender resides, and

(b) in Scotland, the sheriff court for the district where the offender resides or, where the order is made by a stipendiary magistrate and the offender resides within his commission area, the district court for that area; and

"supervising court", in relation to an alcohol ignition interlock programme order, means—

(a) in England and Wales, if the Crown Court made the order the Crown Court and otherwise a magistrates' court acting for the same local justice area as the court which made the order, and

(b) in Scotland, the court which made the order.

(4) Any power to make regulations under section 34D, 34E or 34F of this Act or this section includes power to make different provision for different cases, and to make such incidental or supplementary provision as appears to the appropriate national authority to be necessary or appropriate.

(5) Any power to make regulations under section 34D, 34E or 34F of this Act or this section shall be exercisable by statutory instrument.

(6) A statutory instrument containing regulations made under section 34D, 34E or 34F of this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament."

(2) In the Road Traffic Offenders Act 1988 (c. 53), after section 41A insert—

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"41B Suspension of certificate pending determination of applications under section 34E

(1) Where a person given a certificate under subsection (1) of section 34E of this Act makes an application to a court under subsection (5) of that section, the court may suspend the effect of the certificate 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."

(3) In Schedule 1 to that Act (offences to which certain sections apply)—

(a) in paragraph 3, after paragraph (a) insert—

"(aa) an offence under section 34D(12) of this Act,", and

(b) in paragraph 4, before paragraph (a) insert—

"(za) an offence under section 34D(12) of this Act,".

(4) In Part 1 of Schedule 2 to that Act (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to section 27 of that Act insert—

"Section 34D(12) of this Act	Interference etc. with alcohol ignition interlock.	Summarily.	Level 4 on the standard scale if the motor vehicle to which the alcohol ignition interlock is fitted is a goods vehicle or a vehicle adapted to carry more than eight passengers. Level 3 on the standard scale in any other case.	"

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PROSPECTIVE

16 Experimental period for section 15

(1) Subject as follows, no order shall be made under section 34D of the Road Traffic Offenders Act 1988 (c. 53) (inserted by section 15) after—
  (a) the end of 2010, or
  (b) such later time as may be specified in an order made by the Secretary of State.

(2) But at any time before the restriction imposed by subsection (1) has taken effect, the Secretary of State may by order provide that it shall not do so.

(3) In this section "the experimental period" means the period beginning when section 15 comes into force and ending—
  (a) when the restriction imposed by subsection (1) takes effect, or
  (b) if the Secretary of State makes an order under subsection (2), on a date specified in the order.

(4) During the experimental period—
  (a) no order shall be made under section 34D by virtue of a person's conviction under section 3A of the Road Traffic Act 1988 (c. 52), and
  (b) no order shall be made under section 34D except by a magistrates' court acting for a local justice area (or, in Scotland, a sheriff court for a district or a stipendiary magistrate for a commission area) which is for the time being designated for the purposes of this section.

(5) In relation to orders made under section 34D during the experimental period, section 34E(5) shall have effect with the omission of the references to the relevant local court.

(6) The power to designate an area or district for the purposes of this section is exercisable by the Secretary of State by order, and includes power to revoke a designation previously made.

(7) An order under subsection (6) must specify the period for which an area or district is designated, and may—
  (a) specify different periods for different areas or districts, and
  (b) extend or shorten any period previously specified.

(8) The power to make an order under subsection (1) is not exercisable after the end of 2010, and no more than one order may be made under that subsection.

(9) Any power of the Secretary of State to make orders under this section is exercisable by statutory instrument, and—
  (a) no order is to be made under subsection (1) or (2) unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament, and
  (b) any statutory instrument containing an order under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.

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PROSPECTIVE

Speeding

17 Penalty points

In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences: offences under the Traffic Acts), in column (7) (penalty points)—

(a) for the entry relating to section 17(4) of the Road Traffic Regulation Act 1984 (c. 27) (traffic regulation on special roads), substitute " 2-6 or appropriate penalty points (fixed penalty) if committed in respect of a speed limit, 3 in any other case ", and

(b) for the entry relating to section 89(1) of that Act (speeding offences other than those on special roads), substitute " 2-6 or appropriate penalty points (fixed penalty) ".

18 Speed assessment equipment detection devices

(1) In section 41 of the Road Traffic Act 1988 (c. 52) (regulation of construction, weight, equipment and use of vehicles)—

(a) in subsection (2), at the end insert—

"(m) speed assessment equipment detection devices.", and

(b) in subsection (7), at the end insert—

""speed assessment equipment detection device" means a device the purpose, or one of the purposes, of which is to detect, or interfere with the operation of, equipment used to assess the speed of motor vehicles."

(2) After section 41B of that Act (breach of requirement as to weight: goods and passenger vehicles) insert—

"**41C Breach of requirement as to speed assessment equipment detection devices**

A person who—

(a) contravenes or fails to comply with a construction or use requirement as to speed assessment equipment detection devices, or

(b) uses on a road a motor vehicle or trailer which does not comply with such a requirement, or causes or permits a motor vehicle or trailer to be so used,

is guilty of an offence."

(3) In section 42(a) of that Act (breach of other construction and use requirements), for "or 41B(1)(a)" substitute " , 41B(1)(a), 41C(a) ".

(4) In section 98(1) of the Road Traffic Offenders Act 1988 (c. 53) (interpretation), at the appropriate place insert—

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""special road" in England and Wales has the same meaning as in the Highways Act 1980 and in Scotland has the same meaning as in the Roads (Scotland) Act 1984,".

(5) In Schedule 1 to that Act (offences to which certain sections apply), after the entry relating to section 41B of the Road Traffic Act 1988 (c. 52) insert—

"RTA section 41C	Breach of requirement as to speed assessment equipment detection device.	Sections 11 and 12(1) of this Act."

(6) In Part 1 of Schedule 2 to that Act (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to section 41B of the Road Traffic Act 1988 insert—

"RTA section 41C	Breach of requirement as to speed assessment equipment detection devices.	Summarily.	(a) Level 4 on the standard scale if committed on a special road. (b) Level 3 on the standard scale in any other case.	Discretionary.	Obligatory.	3-6 or 3 (fixed penalty)."

(7) In Schedule 3 to that Act (fixed penalty offences), after the entry relating to section 41B of the Road Traffic Act 1988 insert—

"RTA section 41C	Breach of requirement as to speed assessment equipment detection devices."

19 Exemptions from speed limits

For section 87 of the Road Traffic Regulation Act 1984 (c. 27) (exemption of fire, ambulance and police vehicles from speed limits) substitute—

"**87 Exemptions from speed limits**

(1) No statutory provision imposing a speed limit on motor vehicles shall apply to any vehicle on an occasion when—

(a) it is being used for fire and rescue authority purposes or for or in connection with the exercise of any function of a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005, for ambulance purposes or for police or Serious Organised Crime Agency purposes,

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(b) it is being used for other prescribed purposes in such circumstances as may be prescribed, or

(c) it is being used for training persons to drive vehicles for use for any of the purposes mentioned in paragraph (a) or (b) above,

if the observance of that provision would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion.

(2) Subsection (1) above does not apply unless the vehicle is being driven by a person who—

(a) has satisfactorily completed a course of training in the driving of vehicles at high speed provided in accordance with regulations under this section, or

(b) is driving the vehicle as part of such a course.

(3) The Secretary of State may by regulations make provision about courses of training in the driving of vehicles at high speed.

(4) The regulations may include—

(a) provision about the nature of courses,

(b) provision for the approval by the Secretary of State of persons providing courses or giving instruction on courses and the withdrawal of approvals (including provision for appeals against refusal and withdrawal of approvals),

(c) provision specifying the maximum fees that a person may be required to pay for a course,

(d) provision for the training or assessment, or the supervision of the training or assessment, of persons providing courses or giving instruction on courses,

(e) provision for the evidencing of the successful completion of courses,

(f) provision authorising the Secretary of State to make available information about persons providing courses or giving instruction on courses, and

(g) provision treating courses of training in the driving of vehicles at high speed which have been completed before the coming into force of the regulations as if they had been provided in accordance with the regulations.

(5) The regulations may include provision for the charging of reasonable fees in respect of any function conferred or imposed on the Secretary of State by the regulations.

(6) The regulations may make different provision—

(a) for different classes of vehicle,

(b) for different descriptions of persons, or

(c) otherwise for different circumstances.”

New offences

20 Causing death by careless, or inconsiderate, driving

(1) In the Road Traffic Act 1988 (c. 52), after section 2A insert—

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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"**2B Causing death by careless, or inconsiderate, driving**

A person who causes the death of another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence."

(2) In section 24(1) of the Road Traffic Offenders Act 1988 (c. 53) (alternative verdicts), in the Table—

(a) in the entry relating to section 1 of the Road Traffic Act 1988 (c. 52) (causing death by dangerous driving), in the second column, after "Section 2 (dangerous driving)" insert " Section 2B (causing death by careless, or inconsiderate, driving) ",

(b) after the entry relating to section 2 of that Act insert—

"Section 2B (causing death by careless, or inconsiderate, driving)	Section 3 (careless, and inconsiderate, driving),"

(c) in the entry relating to section 3A of that Act (causing death by careless driving when under influence of drink or drugs), in the second column, before "Section 3 (careless, and inconsiderate, driving)" insert " Section 2B (causing death by careless, or inconsiderate, driving) ".

(3) In Schedule 1 to the Road Traffic Offenders Act 1988 (offences to which certain sections apply), after the entry relating to section 2 of the Road Traffic Act 1988 insert—

"RTA section 2B	Causing death by careless, or inconsiderate, driving.	Sections 11 and 12(1) of this Act."

(4) In Part 1 of Schedule 2 to that Act (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to section 2 of the Road Traffic Act 1988 insert—

"RTA section 2B	Causing death by careless, or inconsiderate, driving.	(a) Summarily.	(a) 12 months (in England and Wales) or 6 months (in Scotland) or the statutory maximum or both.	Obligatory.	Obligatory.	3-11
		(b) On indictment.	(b) 5 years or a fine or both.			"

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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(5) In sections 16(1)(a)(ii) and 17(1)(b) and (2)(b) of the Coroners Act 1988 (c. 13) (informing coroners)—
  (a) after "1" insert " , 2B ", and
  (b) after "dangerous driving" insert " , careless driving ".

(6) In paragraph 3 of Schedule 3 to the Crime (International Co-operation) Act 2003 (c. 32) (offences where notice must be given to authority of State in which offender is normally resident), after paragraph (b) insert—
  "(ba) section 2B (causing death by careless, or inconsiderate, driving),".

Commencement Information
I11 S. 20 in force at 18.8.2008 by S.I. 2008/1918, **art. 2(a)**

21 Causing death by driving: unlicensed, disqualified or uninsured drivers

(1) In the Road Traffic Act 1988 (c. 52), after section 3ZA (inserted by section 30) insert—

"**3ZB Causing death by driving: unlicensed, disqualified or uninsured drivers**

A person is guilty of an offence under this section if he causes the death of another person by driving a motor vehicle on a road and, at the time when he is driving, the circumstances are such that he is committing an offence under—
  (a) section 87(1) of this Act (driving otherwise than in accordance with a licence),
  (b) section 103(1)(b) of this Act (driving while disqualified), or
  (c) section 143 of this Act (using motor vehicle while uninsured or unsecured against third party risks)."

(2) In Schedule 1 to the Road Traffic Offenders Act 1988 (c. 53) (offences to which certain sections apply), after the entry relating to section 3 of the Road Traffic Act 1988 insert—

"RTA section 3ZB	Causing death by driving: unlicensed, disqualified or uninsured drivers.	Sections 11 and 12(1) of this Act."

(3) In Part 1 of Schedule 2 to that Act (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to section 3 of the Road Traffic Act 1988 insert—

"RTA section 3ZB	Causing death by driving: unlicensed, disqualified or uninsured drivers.	(a) Summarily.	(a) 12 months (in England and Wales) or 6 months (in	Obligatory.	Obligatory.	3-11

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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	Scotland) or the statutory maximum or both.	
(b) On indictment.	(b) 2 years or a fine or both.	”

(4) In sections 16(1)(a)(ii) and 17(1)(b) and (2)(b) of the Coroners Act 1988 (c. 13) (informing coroners)—

(a) before “or 3A” insert “ , 3ZB ”, and

(b) before “or careless” insert “ , unlicensed, disqualified or uninsured drivers ”.

(5) In paragraph 3 of Schedule 3 to the Crime (International Co-operation) Act 2003 (c. 32) (offences where notice must be given to authority of State in which offender is normally resident), after paragraph (c) insert—

“(ca) section 3ZB (causing death by driving: unlicensed, disqualified or uninsured drivers),”.

Commencement Information

I12 S. 21 in force at 18.8.2008 by S.I. 2008/1918, **art. 2(b)**

22 Offence of keeping vehicle which does not meet insurance requirements

(1) In the Road Traffic Act 1988 (c. 52), after section 144 insert—

“**144A Offence of keeping vehicle which does not meet insurance requirements**

(1) If a motor vehicle registered under the Vehicle Excise and Registration Act 1994 does not meet the insurance requirements, the person in whose name the vehicle is registered is guilty of an offence.

(2) For the purposes of this section a vehicle meets the insurance requirements if—

(a) it is covered by a such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part of this Act, and

(b) either of the following conditions is satisfied.

(3) The first condition is that the policy or security, or the certificate of insurance or security which relates to it, identifies the vehicle by its registration mark as a vehicle which is covered by the policy or security.

(4) The second condition is that the vehicle is covered by the policy or security because—

(a) the policy or security covers any vehicle, or any vehicle of a particular description, the owner of which is a person named in the policy or security or in the certificate of insurance or security which relates to it, and

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(b) the vehicle is owned by that person.

(5) For the purposes of this section a vehicle is covered by a policy of insurance or security if the policy of insurance or security is in force in relation to the use of the vehicle.

144B Exceptions to section 144A offence

(1) A person ("the registered keeper") in whose name a vehicle which does not meet the insurance requirements is registered at any particular time ("the relevant time") does not commit an offence under section 144A of this Act at that time if any of the following conditions are satisfied.

(2) The first condition is that at the relevant time the vehicle is owned as described—

(a) in subsection (1) of section 144 of this Act, or

(b) in paragraph (a), (b), (da), (db), (dc) or (g) of subsection (2) of that section,

(whether or not at the relevant time it is being driven as described in that provision).

(3) The second condition is that at the relevant time the vehicle is owned with the intention that it should be used as described in paragraph (c), (d), (e) or (f) of section 144(2) of this Act.

(4) The third condition is that the registered keeper—

(a) is not at the relevant time the person keeping the vehicle, and

(b) if previously he was the person keeping the vehicle, he has by the relevant time complied with any requirements under subsection (7)(a) below that he is required to have complied with by the relevant or any earlier time.

(5) The fourth condition is that—

(a) the registered keeper is at the relevant time the person keeping the vehicle,

(b) at the relevant time the vehicle is not used on a road or other public place, and

(c) the registered keeper has by the relevant time complied with any requirements under subsection (7)(a) below that he is required to have complied with by the relevant or any earlier time.

(6) The fifth condition is that—

(a) the vehicle has been stolen before the relevant time,

(b) the vehicle has not been recovered by the relevant time, and

(c) any requirements under subsection (7)(b) below that, in connection with the theft, are required to have been complied with by the relevant or any earlier time have been complied with by the relevant time.

(7) Regulations may make provision—

(a) for the purposes of subsection (4)(b) and (5)(c) above, requiring a person in whose name a vehicle is registered to furnish such particulars and make such declarations as may be prescribed, and to do so at such times and in such manner as may be prescribed, and

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(b) for the purposes of subsection (6)(c) above, as to the persons to whom, the times at which and the manner in which the theft of a vehicle is to be notified.

(8) Regulations may make provision amending this section for the purpose of providing for further exceptions to section 144A of this Act (or varying or revoking any such further exceptions).

(9) A person accused of an offence under section 144A of this Act 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.

144C Fixed penalty notices

(1) Where on any occasion the Secretary of State has reason to believe that a person has committed an offence under section 144A of this Act, the Secretary of State may give the person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the Secretary of State.

(2) Where a person is given a notice under this section in respect of an offence under section 144A of this Act—

(a) no proceedings may be instituted for that offence before the end of the period of 21 days following the date of the notice, and

(b) he may not be convicted of that offence if he pays the fixed penalty before the end of that period.

(3) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(4) A notice under this section must also state—

(a) the period during which, by virtue of subsection (2) above, proceedings will not be taken for the offence,

(b) the amount of the fixed penalty, and

(c) the person to whom and the address at which the fixed penalty may be paid.

(5) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (4)(c) above at the address so mentioned.

(6) Where a letter is sent in accordance with subsection (5) above payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(7) Regulations may make provision as to any matter incidental to the operation of this section, and in particular—

(a) as to the form of a notice under this section,

(b) as to the information to be provided in such a notice by virtue of this section, and

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(c) as to any further information to be provided in a such notice.

(8) The fixed penalty payable under this section is, subject to subsection (9) below, £100.

(9) Regulations may substitute a different amount for the amount for the time being specified in subsection (8) above.

(10) Regulations may make provision for treating a fixed penalty payable under this section as having been paid if a lesser amount is paid before the end of a prescribed period.

(11) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of the Secretary of State, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

144D Section 144A offence: supplementary

(1) Schedule 2A makes provision about the immobilisation of vehicles as regards which it appears that an offence under section 144A of this Act is being committed and about their removal and disposal.

(2) A person authorised by the Secretary of State for the purposes of this subsection may on behalf of the Secretary of State conduct and appear in any proceedings by or against the Secretary of State in connection with the enforcement of an offence under section 144A of this Act or under regulations made under section 160 of this Act by virtue of Schedule 2A to this Act—

(a) in England and Wales, in a magistrates' court, and

(b) in Scotland, in any court other than the High Court of Justiciary or the Court of Session.”

(2) Before section 160 of the Road Traffic Act 1988 (c. 52) insert—

“159A **Disclosure of information**

(1) Regulations may make provision for and in connection with requiring MIIC to make information available to any prescribed person for the purposes of the exercise of any of that person's functions in connection with the enforcement of an offence under this Part of this Act or under regulations made under section 160 of this Act.

(2) In this section—

“MIIC” means the Motor Insurers' Information Centre (a company limited by guarantee and incorporated under the Companies Act 1985 on 8th December 1998), and

“information” means information held in any form.”

(3) After Schedule 2 to that Act insert the Schedule 2A set out in Schedule 5 to this Act.

(4) In section 91(a) of the Road Traffic Offenders Act 1988 (c. 53) (penalty for breach of regulations: application to regulations under Road Traffic Act 1988), after “132” insert “ or under section 160 by virtue of Schedule 2A ”.

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(5) In Schedule 1 to that Act (offences to which certain sections apply), after the entry relating to section 143 of the Road Traffic Act 1988 insert—

"RTA section 144A	Keeping vehicle which does not meet insurance requirements.	Sections 6, 11 and 12(1) of this Act."

(6) Part 1 of Schedule 2 to that Act (prosecution and punishment of offences: offences under the Traffic Acts) is amended as follows.

(7) After the entry relating to section 143 of the Road Traffic Act 1988 insert—

"RTA section 144A	Keeping vehicle which does not meet insurance requirements.	Summarily.	Level 3 on the standard scale.	"

(8) After the entry relating to section 154 of the Road Traffic Act 1988 insert—

"Regulations under RTA section 160 made by virtue of paragraph 2(1) of Schedule 2A	Contravention of provision of regulations (which is declared by regulations to be an offence) prohibiting removal of or interference with immobilisation notice.	Summarily.	Level 2 on the standard scale.
Regulations under RTA section 160 made by virtue of paragraph 2(2) of Schedule 2A	Contravention of provision of regulations (which is declared by regulations to be an offence)	Summarily.	Level 3 on the standard scale.

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	prohibiting removal or attempted removal of immobilisation device.		
Regulations under RTA section 160 made by virtue of paragraph 2(3) of Schedule 2A	Contravention of provision of regulations (which is declared by regulations to be an offence) about display of disabled person's badge.	Summarily.	Level 3 on the standard scale.
Regulations under RTA section 160 made by virtue of paragraph 2(4) of Schedule 2A	Contravention of provision of regulations (which is declared by regulations to be an offence) prohibiting making of false or misleading declaration to secure release of vehicle from immobilisation device.	(a) Summarily. (b) On indictment.	(a) The statutory maximum. (b) 2 years or a fine or both.
Regulations under RTA section 160 made by	Contravention of provision of regulations	(a) Summarily. (b) On indictment.	(a) The statutory maximum.

”

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virtue of paragraph 4 of Schedule 2A	(which is declared by regulations to be an offence) prohibiting making of false or misleading declaration to secure possession of vehicle in person's custody.	(b) 2 years or a fine or both.

Commencement Information

I13 S. 22(1)(2) in force at 4.2.2011 by S.I. 2011/19, **art. 2(a)**
I14 S. 22(3) in force at 4.2.2011 by S.I. 2011/19, **art. 2(b)**
I15 S. 22(4) in force at 16.5.2011 by S.I. 2011/1119, **art. 2(a)**
I16 S. 22(5) in force at 4.2.2011 by S.I. 2011/19, **art. 2(c)**
I17 S. 22(6) in force at 4.2.2011 for specified purposes by S.I. 2011/19, **art. 2(d)**
I18 S. 22(6) in force at 16.5.2011 for specified purposes by S.I. 2011/1119, **art. 2(b)**
I19 S. 22(7) in force at 4.2.2011 by S.I. 2011/19, **art. 2(e)**
I20 S. 22(8) in force at 16.5.2011 for specified purposes by S.I. 2011/1119, **art. 2(c)**

Increases in penalties

23 Careless, and inconsiderate, driving

In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences: offences under the Traffic Acts), in the entry relating to section 3 of the Road Traffic Act 1988 (c. 52) (careless, and inconsiderate, driving), in column (4) (punishment), for “Level 4” substitute “ Level 5 ”.

Commencement Information

I21 S. 23 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(b)**

24 Breach of requirements relating to children and seat belts

In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts), in the entry relating to section 15(4) of the Road Traffic Act 1988 (driving a motor vehicle in contravention of requirements relating to seat belts where children in rear seat), in column (4) (punishment), for “Level 1” substitute “ Level 2 ”.

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Commencement Information

I22 S. 24 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(c)**

25 Using vehicle in dangerous condition etc.

(1) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences: offences under the Traffic Acts), in the entry relating to section 40A of the Road Traffic Act 1988 (c. 52) (using vehicle in dangerous condition etc.), in column (5) (disqualification), for "Discretionary." substitute—

"(a) Obligatory if committed within three years of a previous conviction of the offender under section 40A.
(b) Discretionary in any other case."

(2) In section 34 of that Act (disqualification for certain offences), after subsection (4A) insert—

"(4B) Where a person convicted of an offence under section 40A of the Road Traffic Act 1988 (using vehicle in dangerous condition etc.) has within the three years immediately preceding the commission of the offence been convicted of any such offence, subsection (1) above shall apply in relation to him as if the reference to twelve months were a reference to six months."

Commencement Information

I23 S. 25 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(d)**

26 Breach of requirements as to control of vehicle, mobile telephones etc.

(1) Before section 42 of the Road Traffic Act 1988 insert—

"41D **Breach of requirements as to control of vehicle, mobile telephones etc.**

A person who contravenes or fails to comply with a construction and use requirement—

(a) as to not driving a motor vehicle in a position which does not give proper control or a full view of the road and traffic ahead, or not causing or permitting the driving of a motor vehicle by another person in such a position, or

(b) as to not driving or supervising the driving of a motor vehicle while using a hand-held mobile telephone or other hand-held interactive communication device, or not causing or permitting the driving of a motor vehicle by another person using such a telephone or other device,

is guilty of an offence."

(2) In section 42(a) of that Act (breach of other construction and use requirements), before "of" insert " or 41D ".

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(3) In Schedule 1 to the Road Traffic Offenders Act 1988 (offences to which certain sections apply), before the entry relating to section 42 of the Road Traffic Act 1988 insert—

"RTA section 41D.	Breach of requirements as to control of vehicle, mobile telephones etc.	Sections 11 and 12(1) of this Act."

(4) In Part 1 of Schedule 2 to that Act (prosecution and punishment of offences: offences under the Traffic Acts), before the entry relating to section 42 of the Road Traffic Act 1988 (c. 52) insert—

"RTA section 41D	Breach of requirements as to control of vehicle, mobile telephones etc.	Summarily.	(a) Level 4 on the standard scale if committed in respect of a goods vehicle or a vehicle adapted to carry more than eight passengers. (b) Level 3 on the standard scale in any other case.	Discretionary	Obligatory. 3."

(5) In Schedule 3 to that Act (fixed penalty offences), before the entry relating to section 42 of the Road Traffic Act 1988 insert—

"RTA section 41D	Breach of requirement as to control of vehicle, mobile telephone etc."

Commencement Information
I24 S. 26 in force at 27.2.2007 by S.I. 2007/237, **art. 2(a)**

27 Power of police to stop vehicle

In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences: offences under the Traffic Acts), in the entry relating to section 163 of the Road Traffic Act 1988 (failing to stop mechanically propelled vehicle or cycle when required to do so), in column (4) (punishment), for "Level 3 on the standard scale." substitute—

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"(a) Level 5 on the standard scale if committed by a person driving a mechanically propelled vehicle.
(b) Level 3 on the standard scale if committed by a person riding a cycle."and, in column (2) (general nature of offence), for "motor" substitute " mechanically propelled ".

Commencement Information
I25 S. 27 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(e)**

28 Furious driving

In Part 2 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences otherwise than under the Traffic Acts), after the entry relating to manslaughter and culpable homicide insert—

"An offence under section 35 of the Offences against the Person Act 1861 (furious driving).	Discretionary.	Obligatory if committed in respect of a mechanically propelled vehicle.	3-9"

Commencement Information
I26 S. 28 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(f)**

29 Breach of duty to give information as to identity of driver etc.

In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences: offences under the Traffic Acts), in the entry relating to section 172 of the Road Traffic Act 1988 (c. 52) (duty to give information as to identity of driver etc. in certain circumstances), in column (7) (penalty points), for "3" substitute " 6 ".

Commencement Information
I27 S. 29 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(g)**

Other provisions about offences

30 Meaning of driving without due care and attention

In the Road Traffic Act 1988, after section 3 insert—

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"**3ZA Meaning of careless, or inconsiderate, driving**

(1) This section has effect for the purposes of sections 2B and 3 above and section 3A below.

(2) A person is to be regarded as driving without due care and attention if (and only if) the way he drives falls below what would be expected of a competent and careful driver.

(3) In determining for the purposes of subsection (2) above what would be expected of a careful and competent driver in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

(4) A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving."

Commencement Information

I28 S. 30 in force at 24.9.2007 for specified purposes by S.I. 2007/2472, **art. 2(h)**

I29 S. 30 in force at 18.8.2008 in so far as not already in force by S.I. 2008/1918, **art. 2(c)**

31 Extension of offence in section 3A of Road Traffic Act 1988

(1) Section 3A of the Road Traffic Act 1988 (causing death by careless driving when under influence of drink or drugs etc.) is amended as follows.

(2) In subsection (1), after paragraph (c) insert "or

(d) he is required by a constable to give his permission for a laboratory test of a specimen of blood taken from him under section 7A of this Act, but without reasonable excuse fails to do so,".

(3) In subsection (3), for "and (c)" substitute " , (c) and (d) ".

(4) In section 24(1) of the Road Traffic Offenders Act 1988 (alternative verdicts), in the Table, in the entry relating to section 3A of the Road Traffic Act 1988, in the second column, after "Section 7(6) (failing to provide specimen)" insert " Section 7A(6) (failing to give permission for laboratory test) ".

Commencement Information

I30 S. 31 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(i)**

32 Alternative verdict on unsuccessful culpable homicide prosecution

(1) Section 23 of the Road Traffic Offenders Act 1988 (c. 53) (alternative verdicts in Scotland) is amended as follows.

(2) In subsection (1), for "an offence under section 2 of the Road Traffic Act 1988 (dangerous driving)" substitute " any of the relevant offences ".

(3) After that subsection insert—

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"(1A) For the purposes of subsection (1) above the following are the relevant offences—

(a) an offence under section 1 of the Road Traffic Act 1988 (causing death by dangerous driving),

(b) an offence under section 2 of that Act (dangerous driving), and

(c) an offence under section 3A of that Act (causing death by careless driving when under influence of drink or drugs)."

Commencement Information

I31 S. 32 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(j)**

33 Alternative verdict on unsuccessful manslaughter prosecution

In section 24 of the Road Traffic Offenders Act 1988 (alternative verdicts), before subsection (1) insert—

"(A1) Where—

(a) a person charged with manslaughter in connection with the driving of a mechanically propelled vehicle by him is found not guilty of that offence, but

(b) the allegations in the indictment amount to or include an allegation of any of the relevant offences,

he may be convicted of that offence.

(A2) For the purposes of subsection (A1) above the following are the relevant offences—

(a) an offence under section 1 of the Road Traffic Act 1988 (causing death by dangerous driving),

(b) an offence under section 2 of that Act (dangerous driving),

(c) an offence under section 3A of that Act (causing death by careless driving when under influence of drink or drugs), and

(d) an offence under section 35 of the Offences against the Person Act 1861 (furious driving)."

Commencement Information

I32 S. 33 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(k)**

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Road Safety Act 2006 is up to date with all changes known to be in force on or before 03 July 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)*

VALID FROM 21/12/2012

Attendance on courses

PROSPECTIVE

34 Penalty points

(1) The Road Traffic Offenders Act 1988 is amended as follows.

(2) In section 29 (penalty points to be taken into account on conviction), after subsection (2) insert—

"(2A) Subsection (1)(b) above has effect subject to section 30A(4) of this Act."

(3) After section 30 insert—

"**30A Reduced penalty points for attendance on course**

(1) This section applies where—
- (a) a person is convicted of a specified offence by or before a court,
- (b) penalty points are to be attributed to the offence and the court does not order him to be disqualified, and
- (c) at least seven but no more than eleven penalty points are to be taken into account on the occasion of the conviction.

(2) In this section "specified offence" means—
- (a) an offence under section 3 of the Road Traffic Act 1988 (careless, and inconsiderate, driving),
- (b) an offence under section 36 of that Act (failing to comply with traffic signs),
- (c) an offence under section 17(4) of the Road Traffic Regulation Act 1984 (use of special road contrary to scheme or regulations), or
- (d) an offence under section 89(1) of that Act (exceeding speed limit).

(3) But the Secretary of State may by regulations amend subsection (2) above by adding other offences or removing offences.

(4) Where this section applies, the court may make an order that three of the penalty points attributed to the offence (or all of them if three or fewer are so attributed) shall not be taken into account under section 29(1)(b) of this Act on the occasion of any conviction of an offence after the end of the period of twelve months beginning with the date of the order if, by the relevant date, the offender completes an approved course specified in the order.

(5) In subsection (4) above—

"an approved course" means a course approved by the appropriate national authority for the purposes of this section in relation to the description of offence of which the offender is convicted, and

"the relevant date" means such date, no later than ten months after the day on which the order is made, as is specified in the order.

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(6) A court shall not make an order under this section in the case of an offender convicted of an offence if—

(a) the offender has, during the period of three years ending with the date on which the offence was committed, committed a specified offence and successfully completed an approved course pursuant to an order made under this section or section 34A of this Act on conviction of that offence, or

(b) the offence was committed during his probationary period.

(7) A court shall not make an order under this section in the case of an offender unless—

(a) the court is satisfied that a place on the course specified in the order will be available for the offender,

(b) the offender appears to the court to be of or over the age of 17,

(c) the court has informed the offender (orally or in writing and in ordinary language) of the effect of the order and of the amount of the fees which he is required to pay for the course and when he must pay them, and

(d) the offender has agreed that the order should be made.

30B Certificates of completion of courses

(1) An offender shall be regarded for the purposes of section 30A of this Act as having completed a course satisfactorily if (and only if) a certificate that he has done so is received by the proper officer of the supervising court.

(2) A course provider must give a certificate under subsection (1) above to the offender not later than fourteen days after the date specified in the order as the latest date for the completion of the course unless the offender—

(a) fails to make due payment of fees for the course,

(b) fails to attend the course in accordance with the course provider's reasonable instructions, or

(c) fails to comply with any other reasonable requirement of the course provider.

(3) A certificate under subsection (1) above is to be given by the course provider and shall be in such form, and contain such particulars, as may be prescribed by, or determined in accordance with, regulations made by the appropriate national authority.

(4) Where a course provider decides not to give a certificate under subsection (1) above to the offender, he shall give written notice of the decision to the offender as soon as possible, and in any event not later than fourteen days after the date specified in the order as the latest date for completion of the course.

(5) An offender to whom a notice is given under subsection (4) above may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court, the High Court of Justiciary or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the course provider's

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decision not to give a certificate under subsection (1) above was contrary to subsection (2) above.

(6) If the court grants the application, section 30A of this Act shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(7) If fourteen days after the date specified in the order as the latest date for completion of the course the course provider has given neither the certificate under subsection (1) above nor a notice under subsection (4) above, the offender may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court, the High Court of Justiciary or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the course provider is in default.

(8) If the court grants the application, section 30A of this Act shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(9) A notice under subsection (4) above shall specify the ground on which it is given; and the appropriate national authority may by regulations make provision as to the form of notices under that subsection and as to the circumstances in which they are to be treated as given.

(10) Where the proper office of a court receives a certificate under subsection (1) above, or a court grants an application under subsection (5) or (7) above, the proper officer or court must send notice of that fact to the Secretary of State; and the notice must be sent in such manner and to such address, and must contain such particulars, as the Secretary of State may determine.

30C Approval of courses

(1) If an application is made to the appropriate national authority for the approval of a course for the purposes of section 30A of this Act, the appropriate national authority must decide whether to grant or refuse the application.

(2) In reaching that decision the appropriate national authority must have regard to—

(a) the nature of the course, and

(b) whether the course provider is an appropriate person to provide the course and administer its provision efficiently and effectively,

and may take into account any recommendations made by any persons appointed to consider the application.

(3) A course may be approved subject to conditions specified by the appropriate national authority.

(4) An approval of a course is for the period specified by the appropriate national authority (which must not exceed seven years), subject to withdrawal of approval.

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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(5) Regulations made by the appropriate national authority may make provision in relation to the approval of courses and may, in particular, include provision—

(a) in relation to the making of applications for approval,

(b) for the payment in respect of applications for approval, or of approvals, (or of both) of fees of such amounts as are prescribed by the regulations,

(c) specifying the maximum fees that a person may be required to pay for a course and by when they are to be paid,

(d) for the monitoring of courses and course providers,

(e) in relation to withdrawing approval,

(f) for an appeal to lie to the Transport Tribunal against a refusal of an application for approval, the imposition of conditions on the grant of such an application or the withdrawal of approval, and

(g) authorising the appropriate national authority to make available (with or without charge) information about courses and course providers.

30D Provisions supplementary to sections 30A to 30C

(1) The appropriate national authority may issue guidance to course providers, or to any category of course provider, as to the conduct of courses approved for the purposes of section 30A of this Act; and—

(a) course providers shall have regard to any guidance given to them under this subsection, and

(b) in determining for the purposes of section 30B of this Act whether any instructions or requirements of a course provider were reasonable, a court shall have regard to any guidance given to him under this subsection.

(2) The Secretary of State may by regulations make provision—

(a) amending section 30A(1)(c) of this Act by substituting for the lower number of penalty points for the time being specified there a different number of penalty points, or

(b) amending section 30A(6)(a) of this Act by substituting for the period for the time being specified there a different period.

(3) In sections 30A to 30C of this Act and this section—

"appropriate national authority" means (as respects Wales) the National Assembly for Wales and (otherwise) the Secretary of State;

"course provider", in relation to a course, means the person by whom it is, or is to be, provided;

"probationary period" has the meaning given in section 1 of the Road Traffic (New Drivers) Act 1995;

"proper officer" means—

(a) in relation to a magistrates' court in England and Wales, the designated officer for the court, and

(b) otherwise, the clerk of the court;

"relevant local court", in relation to an order made under section 30A of this Act in the case of an offender, means—

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(a) in England and Wales, a magistrates' court acting for the local justice area in which the offender resides, and

(b) in Scotland, the sheriff court for the district where the offender resides or, where the order is made by a stipendiary magistrate and the offender resides within his commission area, the district court for that area; and

"supervising court", in relation to an order under section 30A of this Act, means—

(a) in England and Wales, if the Crown Court made the order the Crown Court and otherwise a magistrates' court acting for the same local justice area as the court which made the order, and

(b) in Scotland, the court which made the order.

(4) Any power to make regulations under section 30A, 30B or 30C of this Act or this section includes power to make different provision for different cases, and to make such incidental or supplementary provision as appears to the appropriate national authority to be necessary or appropriate.

(5) Any power to make regulations under section 30A, 30B or 30C of this Act or this section shall be exercisable by statutory instrument.

(6) No regulations shall be made under section 30A of this Act or this section unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(7) A statutory instrument containing regulations made under section 30B or 30C of this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament."

35 Reduced disqualification period for attendance on course

For sections 34A to 34C of the Road Traffic Offenders Act 1988 (c. 53) substitute—

"**34A Reduced disqualification for attendance on courses**

(1) This section applies where—

(a) a person is convicted of a relevant drink offence or a specified offence by or before a court, and

(b) the court makes an order under section 34 of this Act disqualifying him for a period of not less than twelve months.

(2) In this section "relevant drink offence" means—

(a) an offence under paragraph (a) of subsection (1) of section 3A of the Road Traffic Act 1988 (causing death by careless driving when unfit to drive through drink) committed when unfit to drive through drink,

(b) an offence under paragraph (b) of that subsection (causing death by careless driving with excess alcohol),

(c) an offence under paragraph (c) of that subsection (failing to provide a specimen) where the specimen is required in connection with drink or consumption of alcohol,

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(d) an offence under section 4 of that Act (driving or being in charge when under influence of drink) committed by reason of unfitness through drink,

(e) an offence under section 5(1) of that Act (driving or being in charge with excess alcohol),

(f) an offence under section 7(6) of that Act (failing to provide a specimen) committed in the course of an investigation into an offence within any of the preceding paragraphs, or

(g) an offence under section 7A(6) of that Act (failing to allow a specimen to be subjected to a laboratory test) in the course of an investigation into an offence within any of the preceding paragraphs.

(3) In this section "specified offence" means—

(a) an offence under section 3 of the Road Traffic Act 1988 (careless, and inconsiderate, driving),

(b) an offence under section 36 of that Act (failing to comply with traffic signs),

(c) an offence under section 17(4) of the Road Traffic Regulation Act 1984 (use of special road contrary to scheme or regulations), or

(d) an offence under section 89(1) of that Act (exceeding speed limit).

(4) But the Secretary of State may by regulations amend subsection (3) above by adding other offences or removing offences.

(5) Where this section applies, the court may make an order that the period of disqualification imposed under section 34 of this Act ("the unreduced period") shall be reduced if, by the relevant date, the offender satisfactorily completes an approved course specified in the order.

(6) In subsection (5) above—

"an approved course" means a course approved by the appropriate national authority for the purposes of this section in relation to the description of offence of which the offender is convicted, and

"the relevant date" means such date, at least two months before the last day of the period of disqualification as reduced by the order, as is specified in the order.

(7) The reduction made in a period of disqualification by an order under this section is a period specified in the order of—

(a) not less than three months, and

(b) not more than one quarter of the unreduced period,

(and, accordingly, where the unreduced period is twelve months, the reduced period is nine months).

(8) A court shall not make an order under this section in the case of an offender convicted of a specified offence if—

(a) the offender has, during the period of three years ending with the date on which the offence was committed, committed a specified offence and successfully completed an approved course pursuant

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to an order made under this section or section 30A of this Act on conviction of that offence, or

(b) the specified offence was committed during his probationary period.

(9) A court shall not make an order under this section in the case of an offender unless—

(a) the court is satisfied that a place on the course specified in the order will be available for the offender,

(b) the offender appears to the court to be of or over the age of 17,

(c) the court has informed the offender (orally or in writing and in ordinary language) of the effect of the order and of the amount of the fees which he is required to pay for the course and when he must pay them, and

(d) the offender has agreed that the order should be made.

34B Certificates of completion of courses

(1) An offender shall be regarded for the purposes of section 34A of this Act as having completed a course satisfactorily if (and only if) a certificate that he has done so is received by the proper officer of the supervising court before the end of the unreduced period.

(2) If a certificate under subsection (1) above is so received before the end of the unreduced period but after the end of the period which would (apart from this subsection) be the reduced period, the reduced period is to be taken to end with the day on which the certificate is so received.

(3) A certificate under subsection (1) above is to be given by the course provider and shall be in such form, and contain such particulars, as may be prescribed by, or determined in accordance with, regulations made by the appropriate national authority.

(4) A course provider must give a certificate under subsection (1) above to the offender not later than fourteen days after the date specified in the order as the latest date for the completion of the course unless the offender—

(a) fails to make due payment of fees for the course,

(b) fails to attend the course in accordance with the course provider's reasonable instructions, or

(c) fails to comply with any other reasonable requirement of the course provider.

(5) Where a course provider decides not to give a certificate under subsection (1) above to the offender, he shall give written notice of the decision to the offender as soon as possible, and in any event not later than fourteen days after the date specified in the order as the latest date for completion of the course.

(6) An offender to whom a notice is given under subsection (5) above may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court, the High Court of Justiciary or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the course provider's

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decision not to give a certificate under subsection (1) above was contrary to subsection (4) above.

(7) If the court grants the application, section 34A of this Act shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(8) If fourteen days after the date specified in the order as the latest date for completion of the course the course provider has given neither a certificate under subsection (1) above nor a notice under subsection (5) above, the offender may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court, the High Court of Justiciary or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the course provider is in default.

(9) If the court grants the application, section 34A of this Act shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(10) A notice under subsection (5) above shall specify the ground on which it is given; and the appropriate national authority may by regulations make provision as to the form of notices under that subsection and as to the circumstances in which they are to be treated as given.

(11) Where the proper officer of a court receives a certificate under subsection (1) above, or a court grants an application under subsection (6) or (8) above, the proper officer or court must send notice of that fact to the Secretary of State; and the notice must be sent in such manner and to such address, and must contain such particulars, as the Secretary of State may determine.

34BA Approval of courses

(1) If an application is made to the appropriate national authority for the approval of a course for the purposes of section 34A of this Act, the appropriate national authority must decide whether to grant or refuse the application.

(2) In reaching that decision the appropriate national authority must have regard to—

(a) the nature of the course, and

(b) whether the course provider is an appropriate person to provide the course and administer its provision efficiently and effectively,

and may take into account any recommendations made by any persons appointed to consider the application.

(3) A course may be approved subject to conditions specified by the appropriate national authority.

(4) An approval of a course is for the period specified by the appropriate national authority (which must not exceed seven years), subject to withdrawal of approval.

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(5) Regulations made by the appropriate national authority may make provision in relation to the approval of courses and may, in particular, include provision—

(a) in relation to the making of applications for approval,

(b) for the payment in respect of applications for approval, or of approvals, (or of both) of fees of such amounts as are prescribed by the regulations,

(c) specifying the maximum fees that a person may be required to pay for a course and by when they are to be paid,

(d) for the monitoring of courses and course providers,

(e) in relation to withdrawing approval,

(f) for an appeal to lie to the Transport Tribunal against a refusal of an application for approval, the imposition of conditions on the grant of such an application or the withdrawal of approval, and

(g) authorising the appropriate national authority to make available (with or without charge) information about courses and course providers.

34C Provisions supplementary to sections 34A to 34BA

(1) The appropriate national authority may issue guidance to course providers, or to any category of course provider, as to the conduct of courses approved for the purposes of section 34A of this Act; and—

(a) course providers shall have regard to any guidance given to them under this subsection, and

(b) in determining for the purposes of section 34B of this Act whether any instructions or requirements of a course provider were reasonable, a court shall have regard to any guidance given to him under this subsection.

(2) The Secretary of State may by regulations make provision—

(a) amending section 34A(1)(b) of this Act by substituting for the period for the time being specified there a different period,

(b) amending section 34A(7) of this Act by substituting for the period for the time being specified there a different period, or by substituting for the fraction of the unreduced period for the time being specified there a different fraction of that period, (or by doing both), or

(c) amending section 34A(8)(a) of this Act by substituting for the period for the time being specified there a different period.

(3) In sections 34A to 34BA of this Act and this section—

"appropriate national authority" means (as respects Wales) the National Assembly for Wales and (otherwise) the Secretary of State;

"course provider", in relation to a course, means the person by whom it is, or is to be, provided;

"probationary period" has the meaning given in section 1 of the Road Traffic (New Drivers) Act 1995;

"proper officer" means—

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(a) in relation to a magistrates' court in England and Wales, the designated officer for the court, and

(b) otherwise, the clerk of the court;

"relevant local court", in relation to an order under section 34A of this Act in the case of an offender, means—

(a) in England and Wales, a magistrates' court acting for the local justice area in which the offender resides, and

(b) in Scotland, the sheriff court for the district where the offender resides or, where the order is made by a stipendiary magistrate and the offender resides within his commission area, the district court for that area; and

"supervising court", in relation to an order under section 34A of this Act, means—

(a) in England and Wales, if the Crown Court made the order the Crown Court and otherwise a magistrates' court acting for the same local justice area as the court which made the order, and

(b) in Scotland, the court which made the order.

(4) Any power to make regulations under section 34A, 34B or 34BA of this Act or this section includes power to make different provision for different cases, and to make such incidental or supplementary provision as appears necessary or appropriate.

(5) Any power to make regulations under section 34A, 34B or 34BA of this Act or this section shall be exercisable by statutory instrument.

(6) No regulations shall be made under section 34A of this Act or this section unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(7) A statutory instrument containing regulations made under section 34B or 34BA of this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Driving standards

36 Driving tests

(1) Section 89 of the Road Traffic Act 1988 (c. 52) (driving tests) is amended as follows.

(2) In subsection (3) (regulations about nature of tests)—

(a) in paragraph (a), insert at the end " and the administrative arrangements for submitting for such tests ",

(b) in paragraph (b), after "conducted" insert " , conditions which must be satisfied during the currency of an appointment, the charging of reasonable fees in respect of applications for appointment or appointments or in connection with any examination or assessment which may be required before appointment or during the currency of any appointment ", and

(c) after that paragraph insert—

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"(ba) the duty of a person submitting himself for a test to produce, and in prescribed circumstances surrender, any licence previously granted to him,".

(3) In subsection (4) (provision that may be included in regulations under subsection (3)) —

(a) for "In particular, regulations may, without prejudice to the generality of subsection (3) above," substitute " Regulations under subsection (3)(a) above may in particular ",

(b) in paragraph (a) (provision by person submitting himself for driving test of vehicle which, if loading requirements are prescribed, is loaded in accordance with prescribed requirements), for "a vehicle" substitute " a safe and suitable vehicle ",

(c) in that paragraph, for the words after "the test" substitute " and for requiring that, if the vehicle is a vehicle of a prescribed description, it has been certified in the prescribed manner after a prescribed inspection as satisfying such requirements as may be prescribed, ", and

(d) for paragraph (b) substitute—

"(b) for the charging (whether on the making of an appointment for a test or otherwise) of reasonable fees for or in connection with the test and any inspection of a vehicle required by regulations under paragraph (a) above in relation to the test,".

(4) In subsection (5) (driving tests in parts), omit paragraph (b) and the word "and" before it.

(5) After that subsection insert—

"(5ZA) Regulations under subsection (3)(b) above may in particular provide—

(a) for the supply by the Secretary of State to persons by whom tests of competence to drive, or parts of such tests, may be conducted of forms for certificates evidencing the results of such tests or parts of such tests, and

(b) for the charging of reasonable fees in respect of the exercise of any function conferred or imposed on the Secretary of State by the regulations."

(6) In section 91 of that Act (repayment of test fees), for "A fee" substitute " The whole or any part of a fee ".

Commencement Information

I33 S. 36 in force at 27.2.2007 by S.I. 2007/237, **art. 2(b)**

PROSPECTIVE

37 Disqualification until test is passed

(1) Section 36 of the Road Traffic Offenders Act 1988 (c. 53) (duty of court to order disqualification until test is passed) is amended as follows.

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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(2) In subsection (3) (order to be made in case of person disqualified in circumstances, or for period, prescribed by order)—

(a) for "in such circumstances or for such period" substitute " for such period, in such circumstances or for such period and in such circumstances ",

(b) for "prescribe" substitute " specify ", and

(c) for "may be so prescribed" substitute " the Secretary of State may by order specify ".

(3) In subsection (5) (interpretation), for the definition of "appropriate driving test" substitute—

""appropriate driving test" means—

(a) in such circumstances as the Secretary of State may prescribe, an extended driving test, and

(b) otherwise, a test of competence to drive which is not an extended driving test,"; and, in the definition of "extended driving test", after "section" insert " by regulations made by the Secretary of State ".

(4) In subsection (8) (disqualification to expire on production in accordance with regulations under section 105 of Road Traffic Act 1988 of evidence of having passed test), for "under section 105 of the Road Traffic Act 1988" substitute " made by the Secretary of State ".

(5) In subsection (9) (disqualification to expire by reason of passing of test only in relation to vehicles of such classes as are prescribed by such regulations), for "under that section" substitute " made by the Secretary of State ".

(6) After subsection (13) insert—

"(13A) Before making an order under subsection (3) above the Secretary of State must consult with such representative organisations as he thinks fit."

(7) Omit subsection (14) (no order to be made under subsection (3) after end of 2001 unless one previously made).

(8) In section 173(2) of the Road Traffic Act 1988 (c. 52) (forgery of documents etc.), insert at the end "and

(n) any document produced as evidence of the passing of an appropriate driving test within the meaning of section 36 of that Act."

PROSPECTIVE

38 Granting of full licence

(1) In section 89(1) of the Road Traffic Act 1988 (c. 52) (licence not to be granted unless conditions satisfied), for—

(a) the words in paragraph (a) before sub-paragraph (i), and

(b) the words from "that" to "passed" in paragraphs (c) and (e),

substitute " that he has, at such time or within such period as is prescribed, passed ".

(2) In section 97 of that Act (grant of licences), after subsection (1) insert—

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"(1ZA) Regulations may provide that in prescribed circumstances a licence granted by the Secretary of State may be granted subject to prescribed conditions having effect—

(a) for a prescribed period, or

(b) until the happening of a prescribed event."

(3) In section 98(1)(c) of that Act (provisional licence to specify conditions subject to which it is granted)—

(a) omit "in the case of a provisional licence", and

(b) for "the conditions" substitute " any conditions ".

(4) In section 195 of that Act (provisions as to regulations)—

(a) in subsection (3), omit "is exercised" and after "189)" insert " is exercised (otherwise than for the purposes of section 97(1ZA) of this Act) ", and

(b) in subsection (4), after "Act" insert " , or for the purposes of section 97(1ZA) of this Act, ".

PROSPECTIVE

39 Compulsory surrender of old-form licences

(1) In the Road Traffic Act 1988, after section 98 insert—

"**98A Compulsory surrender of old-form licences**

(1) The Secretary of State may by order require the holders of licences of a specified description, or any specified description of the holders of such licences, to surrender the licences and their counterparts to the Secretary of State.

(2) An order under this section may specify as the description of licences to be surrendered—

(a) licences which are not in the form of a photocard, or

(b) licences in the form of a photocard of a description no longer specified by the Secretary of State as a form in which licences are granted.

(3) An order under this section must specify the date by which the licences to which it relates (and their counterparts) are to be surrendered; and may specify different dates in relation to different descriptions of licence holders.

(4) An order under this section must include provision for the grant of a new licence to every holder of a licence surrendered (with its counterpart) in pursuance of the order who—

(a) pays such fee (if any) as is specified by the order, [F1]...

(b) provides the Secretary of State with such evidence or further evidence as the Secretary of State may require (which may include a photograph which is a current likeness of him) **[**[F2]and

(c) provides such evidence or further evidence as the Secretary of State may require for the purpose of satisfying the Secretary of State that the holder is not suffering from a relevant or prospective disability.**]**

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(5) A replacement licence granted pursuant to provision made by virtue of subsection (4) above expires on the date on which the surrendered licence would have expired had it not been surrendered (but subject to subsection (6) below).

(6) Where the period for which the surrendered licence was granted was based on an error with respect to the licence holder's date of birth such that (if the error had not been made) that licence would have been expressed to expire on a different date, the replacement licence expires on that different date.

(7) A person who, without reasonable excuse, fails to comply with any requirement to surrender a licence and its counterpart imposed by an order under this section is guilty of an offence.

(8) An order under this section may—
  (a) make different provision for different cases, and
  (b) contain such incidental and supplementary provisions as the Secretary of State considers appropriate.

(9) The power to make an order under this section is exercisable by statutory instrument.

(10) Before making an order under this section the Secretary of State must consult with such representative organisations as he thinks fit.

(11) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

(2) In Schedule 1 to the Road Traffic Offenders Act 1988 (c. 53) (offences to which certain sections apply), after the entry relating to section 94A of the Road Traffic Act 1988 (c. 52) insert—

“RTA section 98A(7)	Driving licence holder failing to surrender licence and counterpart.	Section 6 of this Act.”

(3) In Part 1 of Schedule 2 to that Act (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to section 96 of the Road Traffic Act 1988 insert—

“RTA section 98A(7)	Driving licence holder failing to surrender licence and counterpart.	Summarily.	Level 3 on the standard scale.	.”

Textual Amendments

F1 Word in s. 39(1) omitted (E.W.S.) (20.4.2012) by virtue of The Motor Vehicles (Driving Licences) (Amendment) Regulations 2012 (S.I. 2012/977), reg. 1(2), **Sch. 2 para. 2(2)(a)**

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F2 Words in s. 39(1) inserted (E.W.S.) (20.4.2012) by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2012 (S.I. 2012/977), reg. 1(2), **Sch. 2 para. 2(2)(b)**

40 Fee for renewal of photocard licence and issue of certain alternative licences

(1) In section 99 of the Road Traffic Act 1988 (duration of licence)—

(a) in subsection (7) (grant of new licence free of charge on surrender of photocard licence after ten years, in cases of error and on change of name or address), omit "and any licence granted under this subsection shall be granted free of charge", and

(b) After that subsection insert—

"(7ZA) The Secretary of State is not required by subsection (7) above to grant a new licence on the surrender of a licence and its counterpart by a person in pursuance of subsection (2A) above unless the person has paid the fee (if any) which is prescribed; but any other licence under that subsection is to be granted free of charge."

(2) In section 117A(2)(c) and (3) of that Act (disqualification etc. of holders of Community licences: issue of alternative licences), for ", free of charge," substitute " , on payment of such fee (if any) as may be prescribed, ".

Commencement Information

I34 S. 40 in force at 27.2.2007 by S.I. 2007/237, **art. 2(c)**

41 Driver training

(1) Section 99ZC(1) of the Road Traffic Act 1988 (c. 52) (driver training courses: supplementary) is amended as follows.

(2) In paragraphs (b) and (c), after "courses" insert " or giving instruction on such courses ".

(3) After paragraph (e) insert "and

(f) provision authorising the Secretary of State to make available information about persons providing driver training courses or giving instruction on such courses."

(4) In section 173(2) of that Act (forgery of documents etc.), for paragraph (ff) substitute—

"(ff) any document evidencing the successful completion of a driver training course provided in accordance with regulations under section 99ZA of this Act,".

(5) In section 174(1) of that Act (false statements), after paragraph (c) insert—

"(ca) of obtaining a document evidencing the successful completion of a driver training course provided in accordance with regulations under section 99ZA of this Act, or".

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Commencement Information

I35 S. 41 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(l)**

VALID FROM 21/05/2012

42 Driving instruction

Schedule 6 contains amendments about driving instruction.

43 Tests: approved assistants

In the Road Traffic Act 1988, before section 163 insert—

"Requirement for approval of persons to assist at tests

162A **Approved test assistants**

(1) The Secretary of State may make regulations permitting any person wishing to be accompanied at a relevant test by another person (a "test assistant") to be so accompanied if—

(a) he submits himself for the relevant test in any circumstances in which the Secretary of State considers it appropriate that he should be entitled to be so accompanied, and

(b) the test assistant is approved in accordance with regulations under this section to accompany people at relevant tests in such circumstances in order to assist them in undergoing the relevant tests.

(2) The circumstances in which the Secretary of State considers it appropriate that a person should be entitled to be accompanied by a test assistant at a relevant test may include, for example, circumstances in which he is likely to have difficulty in hearing, understanding or responding to instructions or questions in the course of the relevant test without assistance.

(3) The regulations may make provision in relation to the approval of test assistants and may, in particular, include provision—

(a) in relation to the making of applications for approval,

(b) for the payment in respect of applications for approval, or of approvals, (or both) of fees of such amounts as are prescribed,

(c) in relation to the period for which an approval is to have effect and withdrawing approval,

(d) authorising the imposition of conditions on an approval,

(e) for an appeal to lie to the Transport Tribunal against a refusal of an application for approval, the imposition of conditions on an approval or the withdrawal of approval,

(f) prescribing circumstances in which an approved test assistant may not act as such,

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(g) as to the evidencing by persons of their status as approved test assistants, and

(h) authorising the Secretary of State to make available (with or without charge) information about approved test assistants.

(4) The regulations may make different provision in relation to different cases.

(5) The following are relevant tests—

(a) tests of competence to drive a motor vehicle prescribed by virtue of section 89(3) of this Act or section 36(5) of the Road Traffic Offenders Act 1988,

(b) examinations of ability and fitness (or continued ability and fitness) to give driving instruction for which provision is made by virtue of section 132 of this Act, and

(c) emergency control assessments under section 133A of this Act."

Commencement Information

I36 S. 43 in force at 24.9.2007 by S.I. 2007/2472, **art. 2(m)**

Regulation of registration plate suppliers

44 Enforcement authorities

(1) Part 2 of the Vehicles (Crime) Act 2001 (c. 3) (regulation of registration plate suppliers) is amended as follows.

(2) In section 26(8) (power of entry for authorised persons: meaning of "authorised person"), for "section by" substitute "section—

(a) by the Secretary of State, or

(b) by".

(3) In section 30(a) (institution of proceedings for offences), after "by" insert " the Secretary of State, ".

(4) In section 31(1) (interpretation of Part 2), for the definition of "local authority" substitute—

""local authority" means—

(a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London in its capacity as a local authority or the Council of the Isles of Scilly;

(b) in relation to Wales, a county council or a county borough council;".

Commencement Information

I37 S. 44 in force at 16.3.2007 for E.W. by S.I. 2007/466, **art. 2(a)**

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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45 Registration plates

(1) Part 2 of the Vehicles (Crime) Act 2001 (c. 3) (regulation of registration plate suppliers) is amended as follows.

(2) In section 31(1) (interpretation of Part 2), in paragraph (a) of the definition of "registration plate", for "a registration mark" substitute " in accordance with regulations under paragraph (b) of subsection (4) of section 23 of the 1994 Act a registration mark which complies with regulations under paragraph (a) of that subsection ".

(3) Section 28 (offences) is amended as follows.

(4) After subsection (1) insert—

"(1A) A person who sells a plate or other device which is not a registration plate only because the registration mark displayed by it—

(a) does not comply with regulations under paragraph (a) of subsection (4) of section 23 of the 1994 Act, or

(b) is displayed otherwise than in accordance with regulations under paragraph (b) of that subsection,

(or both) shall be guilty of an offence.

(1B) The Secretary of State may by regulations provide that the offence under subsection (1A) is not committed in circumstances prescribed by the regulations."

(5) In subsection (2), after "(1)" insert " or (1A) ".

(6) In subsection (3), for "subsection (1) or (2)" substitute " this section ".

(7) In the heading, for **"counterfeit registration plates"** substitute " plates etc. "

Commencement Information

I38 S. 45 in force at 30.7.2008 for E.W. with effect as mentioned in arts. 3 and 4 of the commencing S.I. by S.I. 2008/1862, **art. 2**

46 Extension to Scotland and Northern Ireland

(1) Part 2 of the Vehicles (Crime) Act 2001 (regulation of registration plate suppliers) extends to Scotland and Northern Ireland.

(2) In consequence of subsection (1) that Act is amended as follows.

(3) In section 17(1) (requirement of registration for registration plate suppliers carrying on business in England or Wales), omit "in England or Wales".

(4) In section 18(5) (certified copy of register or extract from register to be evidence of matters mentioned in it), after "evidence" insert " (or, in Scotland, sufficient evidence) ".

(5) In section 20(6) (removal or suspension not to have effect while appeal pending or capable of being brought: meaning of "appeal"), after the reference to section 111 of the Magistrates' Courts Act 1980 (c. 43) insert " or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 ".

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(6) For section 23 substitute—

"**23 Appeals: Part 2**

(1) An appeal against the cancellation by the Secretary of State under section 21 of a person's registration may be brought—
  (a) in England and Wales, to a magistrates' court,
  (b) in Scotland, to the sheriff, or
  (c) in Northern Ireland, to a court of summary jurisdiction.

(2) An appeal under subsection (1) shall be brought within the period of 21 days beginning with the day on which the person concerned is served with a notice under section 22(7).

(3) The procedure on an appeal under subsection (1)—
  (a) in England and Wales, is to be by way of complaint for an order and in accordance with the Magistrates' Courts Act 1980,
  (b) in Scotland, is to be by way of summary application to the sheriff, and
  (c) in Northern Ireland, is to be by way of notice under Part 7 of the Magistrates' Courts (Northern Ireland) Order 1981.

(4) For the purposes of the time limit for bringing an appeal under subsection (1) the appeal is to be treated as brought—
  (a) in England and Wales, on the making of the complaint,
  (b) in Scotland, on the lodging of the summary application with the sheriff clerk, and
  (c) in Northern Ireland, when a notice is served on the clerk of the petty sessions under Article 76(2)(a) of the Magistrates' Courts (Northern Ireland) Order 1981.

(5) A party to an appeal to the sheriff under subsection (1) may further appeal, on a point of law only, to the sheriff principal or the Court of Session; and the decision on such an appeal is final.

(6) On an appeal under subsection (1) or (5), the court may confirm, vary or reverse the decision appealed against and generally give such directions as it considers appropriate having regard to the provisions of this Part.

(7) The Secretary of State must comply with any directions given by a court under this section.

(8) But the Secretary of State need not do so until—
  (a) in England and Wales, the time for making an application under section 111 of the Magistrates' Courts Act 1980 (application by way of case stated),
  (b) in Scotland, the time for lodging an appeal under subsection (5), or
  (c) in Northern Ireland, the time for making an application under Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (application by way of case stated),

  has passed.

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(9) And if such an application or appeal is made or lodged, he need not do so until the final determination or withdrawal of the appeal or application."

(7) In section 26 (rights to enter and inspect premises)—

(a) in subsection (3) (application for warrant), after "justice of the peace" insert " , or (in Scotland) a justice of the peace, magistrate or sheriff, ",

(b) in subsection (4) (issue of warrant), after "justice" insert " of the peace, magistrate or sheriff ", and

(c) in subsection (8) (as amended by section 44(2)), before "by a local authority" insert " (except in Northern Ireland) ".

(8) Section 30 (proceedings for offences) (as amended by section 44(3)), is to be renumbered as subsection (1) of that section; and—

(a) in that subsection, after "instituted" insert " in England and Wales ", and

(b) after that subsection insert—

"(2) Proceedings for an offence under this Part shall not be instituted in Northern Ireland except—

(a) by the Secretary of State or a constable; or

(b) in any other case, with the consent of the Advocate General for Northern Ireland.

(3) In relation to any time before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002, the reference in subsection (2)(b) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General for Northern Ireland."

(9) In section 31(1) (interpretation), in the definition of "local authority" (as substituted by section 44(4)), insert at the end "or

(c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;".

(10) In section 39 (offences by body corporate), insert at the end—

"(3) Where an offence under this Act committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership commits the offence and shall be liable to be proceeded against and punished accordingly."

(11) In section 45 (extent)—

(a) in subsection (1) (provisions extending only to England and Wales), for "Parts 1 and 2," substitute " Part 1 ", and

(b) in subsection (2), (provisions extending to England and Wales, Scotland and Northern Ireland), for "Sections" substitute " Part 2 and sections ".

Commencement Information

I39 S. 46 in force at 31.7.2008 by S.I. 2008/1864, **art. 2** (with art. 3)

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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Information

PROSPECTIVE

47 Particulars to be included in vehicles register

(1) Section 7 of the Vehicle Excise and Registration Act 1994 (c. 22) (issue of vehicle licences) is amended as follows.

(2) After subsection (1) insert—

"(1A) The particulars which may be so specified include any particulars which are required by regulations under section 22(1)(aa) to be recorded on the register in the case of the vehicle for which the licence is to be taken out; and the declarations and evidence which may be so specified include declarations and evidence relating to any such particulars."

(3) In subsection (5), before paragraph (a) insert—

"(za) that the requirements imposed by this section in the case of the vehicle specified in the application have been complied with,".

(4) Section 22 of that Act (registration regulations) is amended as follows.

(5) In paragraph (a) of subsection (1) (provision with respect to registration), for "(including, in particular, the form of and the particulars to be included in the register of trade licences)" substitute " and trade licences ".

(6) After that paragraph insert—

"(aa) prescribe the form of, and the particulars to be included in, the register of vehicles and the register of trade licences,".

(7) In paragraph (d) of that subsection (requirement on person by, through or to whom vehicle is sold or disposed of to furnish particulars)—

(a) after "person" insert " by whom any vehicle is kept or ",

(b) for "furnish the particulars" substitute " make any such declarations and furnish any such particulars and any such documentary or other evidence as may be ", and

(c) for "in the manner" substitute " and to do so at such times and in such manner as may be ".

(8) In paragraph (h) of that subsection (new registration documents), for "or inaccurate" substitute " or which have become inaccurate for any reason (in particular by reason of a change in the person by whom the vehicle to which they relate is being kept) ".

(9) After subsection (1A) insert—

"(1AA) The particulars which may be required to be included in the register by regulations under subsection (1)(aa), or to be furnished by regulations under subsection (1)(d), in the case of a vehicle include—

(a) particulars relating to the vehicle, and

(b) particulars relating to the person by whom the vehicle is kept;

and the declarations and evidence which may be required to be furnished by regulations under subsection (1)(d) in the case of a vehicle include declarations and evidence relating to such particulars."

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(10) After subsection (1B) insert—

"(1BA) Regulations under subsection (1)(e) and (h) may, in particular, provide that registration documents, or new registration documents, need not be issued in respect of a vehicle if particulars required in the case of the vehicle by regulations under paragraph (d) have not been furnished."

(11) Section 45 of that Act (false or misleading declarations and information) is amended as follows.

(12) In subsection (1), after "misleading" insert " , or produces a document which to his knowledge is false or in any material respect misleading, ".

(13) In subsection (2A)—

(a) after "statement" insert " or produces a document ", and

(b) for "made in respect of a vehicle" substitute " made or produced ".

PROSPECTIVE

48 Records of goods vehicle examinations

(1) In section 49 of the Road Traffic Act 1988 (c. 52) (tests of satisfactory condition of goods vehicles and determination of plated weights etc.), after subsection (3) insert—

"(3A) The Secretary of State must maintain, or cause to be maintained, records containing such particulars as he thinks fit of—

(a) goods vehicles submitted for examination under this section, and

(b) the carrying out of and the results of the examinations."

(2) After that section insert—

"**49A Use of records of goods vehicle examinations, etc.**

(1) This section applies to—

(a) the records maintained by the Secretary of State (or caused by him to be maintained) under section 49(3A) of this Act, and

(b) the records maintained by the Secretary of State in connection with any functions exercisable by him under or by virtue of the Vehicle Excise and Registration Act 1994.

(2) The Secretary of State may use the information contained in records falling within either paragraph of subsection (1) above—

(a) to check the accuracy of the records falling within the other paragraph of that subsection, and

(b) where appropriate, to amend or supplement information contained in those records.

(3) The Secretary of State may also use the information contained in records falling within paragraph (b) of that subsection for the purpose of promoting compliance with section 53 of this Act.

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(4) This section does not limit any powers of the Secretary of State apart from this section."

(3) In section 22A(6) of the Vehicle Excise and Registration Act 1994 (c. 22) (vehicle identity checks), after "45(6B)" insert " or 49(3A) ".

49 Disclosure to foreign authorities of licensing and registration information

(1) The Secretary of State may make any information held by him (in any form) for the purposes of—
  (a) Part 3 or 4 of the Road Traffic Act 1988 (c. 52) (licensing of drivers of vehicles), or
  (b) Part 2 of the Vehicle Excise and Registration Act 1994 (registration of vehicles),

available to the authorities of any country or territory outside the United Kingdom with responsibility under the law of that country or territory for the regulation of drivers or vehicles for use by them in the discharge of that responsibility.

(2) The Department of the Environment may make any information held by it (in any form) for the purposes of—
  (a) Part 2 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (licensing of drivers of vehicles), or
  (b) Articles 70 to 79 of that Order (licensing of drivers of large goods vehicles and passenger-carrying vehicles),

available to the authorities of any country or territory outside the United Kingdom with responsibility under the law of that country or territory for the regulation of drivers or vehicles for use by them in the discharge of that responsibility.

[[F3]49A Disclosure of information relating to foreign-registered vehicles

(1) The Secretary of State may disclose information to which subsection (2) applies to any person or body referred to in subsection (3) (subject to any restrictions mentioned in relation to the person or body).

(2) This subsection applies to information that—
  (a) is derived from particulars contained in a register of vehicles that is maintained in a country or territory outside the United Kingdom, and
  (b) has been obtained by the Secretary of State from the authority or authorities of that country or territory with responsibility under the law of that country or territory for maintaining the register.

(3) The persons and bodies are—
  (a) a local authority, where the disclosure is made for any purpose connected with the investigation of—
    (i) an offence, or
    (ii) a road traffic contravention;
  (b) Transport for London, where the disclosure is made for such a purpose;
  (c) the Department of the Environment in Northern Ireland, where the disclosure is made for any purpose connected with the investigation of an offence;

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(d) the Department for Regional Development in Northern Ireland, where the disclosure is made for any purpose connected with the investigation of a road traffic contravention;

(e) the chief officer of police of a police force in England and Wales;

(f) the chief constable of a police force maintained under the Police (Scotland) Act 1967;

(g) a member of the Police Service of Northern Ireland;

(h) an officer of Revenue and Customs;

(i) an inspector of taxes, where the disclosure is made for any purpose connected with any tax liability to which a person is or may be subject, or the amount of any such liability;

(j) a person who the Secretary of State is satisfied has reasonable cause for seeking disclosure of the information.

(4) The Secretary of State may charge a reasonable fee in respect of the cost of—

(a) obtaining, or seeking to obtain, information falling within subsection (2)(a);

(b) supplying information under subsection (1).

(5) Nothing in this section affects any other power of the Secretary of State to disclose information.

(6) In this section—

"local authority" means—

(a) a county council in England;

(b) a metropolitan district council;

(c) a non-metropolitan district council for an area for which there is no county council;

(d) a London borough council;

(e) the Common Council of the City of London;

(f) the Council of the Isles of Scilly;

(g) a county council or county borough council in Wales;

(h) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

"road traffic contravention" means—

(a) in relation to England and Wales, any contravention falling within Schedule 7 to the Traffic Management Act 2004;

(b) in relation to Scotland, any act or omission that would have been an offence but for paragraph 1(4) or (as the case may be) 2(4) of Schedule 3 to the Road Traffic Act 1991 (control of parking in permitted and special parking areas);

(c) in relation to Northern Ireland, any contravention falling within Schedule 1 to the Traffic Management (Northern Ireland) Order 2005 (2005 No. 1964 (N.I. 14));

"tax" has the meaning given by section 118(1) of the Taxes Management Act 1970.**]**

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Textual Amendments

F3 S. 49A inserted (9.2.2009) by Local Transport Act 2008 (c. 26), **ss. 129**, 134(4); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

[F4 49B Use of information relating to foreign-registered vehicles

(1) The Secretary of State may use information to which section 49A(2) applies for any of the purposes referred to in subsection (2).

(2) The purposes are—

(a) to check the accuracy of information which has been obtained under regulations made by virtue of section 22A(2) of the Vehicle Excise and Registration Act 1994 (vehicle identity checks);

(b) to check the accuracy of records maintained by the Secretary of State in connection with any functions exercisable by the Secretary of State under or by virtue of that Act;

(c) to check the accuracy of records maintained, or caused to be maintained, under section 45(6B) or 49(3A) of the Road Traffic Act 1988 (records of examinations of goods and other vehicles);

(d) to promote compliance with section 47 or 53 of that Act (obligatory test certificates for goods and other vehicles);

(e) where appropriate, to amend or supplement any information mentioned in the foregoing provisions of this subsection or information contained in any records so mentioned;

(f) to trace a non-resident parent (within the meaning of the Child Support (Information, Evidence and Disclosure) Regulations 1992 (S.I. 1992/1812)).**]**

Textual Amendments

F4 S. 49B inserted (9.2.2009) by Local Transport Act 2008 (c. 26), **ss. 130**, 134(4); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

Level crossings

50 Safety arrangements at level crossings

(1) Section 1 of the Level Crossings Act 1983 (c. 16) (safety arrangements at level crossings) is amended as follows.

(2) For paragraph (a) of subsection (2) substitute—

"(a) may require the operator of the crossing or the local traffic authority (or both) to provide at or near the crossing any protective equipment specified in the order and to maintain and operate that equipment in accordance with the order;".

(3) In paragraph (b) of that subsection, after "impose" insert " on the operator ".

(4) In subsection (3)(b), omit "barriers or other".

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(5) In subsection (5)(b), for "include requirements as to" substitute " impose requirements as to protective ".

(6) For subsection (6) substitute—

"(6) The Secretary of State may make an order under this section in respect of a level crossing on being requested to do so by the operator of the crossing or without a request by the operator.

(6ZA) The Secretary of State may not make an order without a request by the operator unless—

(a) he has consulted the Office of Rail Regulation and the local traffic authority about the order he proposes to make; and

(b) having done so, he has sent to the operator, the Office of Rail Regulation and the local traffic authority a copy of a draft of the order he proposes to make and a notice specifying the period (not being less than two months) within which they may make representations to him in respect of his proposal to make the order."

(7) For subsection (8) substitute—

"(8) Before making a request the operator—

(a) must consult the Office of Rail Regulation and the local traffic authority about the draft order he intends to submit to the Secretary of State; and

(b) having done so, must give written notice to the Office of Rail Regulation and the local traffic authority of his intention to make a request.

(8A) A notice given under subsection (8)—

(a) must be accompanied by a copy of the draft order which the operator intends to submit to the Secretary of State; and

(b) must specify the period (not being less than two months) within which the Office of Rail Regulation and the local traffic authority may make representations to the Secretary of State in respect of the request."

(8) In subsection (9), for "(6) or (8)" substitute " (6ZA) or (8A) ".

(9) In subsection (11)—

(a) omit the definition of "local authority",

(b) before the definition of "operator" insert—

""local traffic authority", in relation to a crossing, means the authority which for the purposes of the Road Traffic Regulation Act 1984 is the local traffic authority for the road crossed by the railway at the crossing;", and

(c) in the definition of "protective equipment", after "includes" insert " barriers, ".

Commencement Information

I40 S. 50 in force at 27.2.2007 by S.I. 2007/237, **art. 2(d)**

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51 Delegation of power to make level crossing orders

(1) In paragraph 7 of Schedule 3 to the Railways Act 2005 (c. 14) (agreements by Secretary of State and Office of Rail Regulation for that Office to carry out on his behalf functions other than powers to make instruments of legislative character), after sub-paragraph (3) insert—

"(4) Sub-paragraph (3)(b) does not prevent the Secretary of State and the Office of Rail Regulation from entering into an agreement for that Office to carry out on his behalf the function of making orders under section 1 of the Level Crossings Act 1983."

(2) Subsection (2) of section 13 of the Health and Safety at Work etc. Act 1974 (c. 37) (agreements by Health and Safety Commission with Minister to perform functions on his behalf not to be taken to authorise performance of powers to make instruments of legislative character) is not to be taken to have prevented the performance by the Health and Safety Executive (on behalf of the Health and Safety Commission), in reliance on an agreement under subsection (1)(b) of that section, of the function of making orders under section 1 of the Level Crossings Act 1983 (c. 16).

Hackney carriages and private hire vehicles

52 Immediate suspension and revocation of drivers' licences

(1) Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) (hackney carriages and private hire vehicles in England and Wales outside London) is amended as follows.

(2) In section 61 (suspension and revocation of drivers' licences), after subsection (2) insert—

"(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver."

(3) In subsection (3) of that section, after "under" insert " subsection (1) of ".

(4) In section 77 (appeals), after subsection (2) insert—

"(3) Subsection (2) of this section does not apply in relation to a decision under subsection (1) of section 61 of this Act which has immediate effect in accordance with subsection (2B) of that section."

Commencement Information

I41 S. 52 in force at 16.3.2007 for E.W. by S.I. 2007/466, **art. 2(b)**

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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53 Abolition of "contract exemption"

In section 75(1) of the Local Government (Miscellaneous Provisions) Act 1976 (hackney carriages and private hire vehicles in England and Wales outside London: savings), omit paragraph (b)(vehicles used only for carrying passengers for hire or reward under contract for hire for not less than 7 day period).

Commencement Information

I42 S. 53 in force at 28.1.2008 for E.W. by S.I. 2007/3492, **art. 2**

54 Private hire vehicles in London

In the definition of "private hire vehicle" in section 1(1)(a) of the Private Hire Vehicles (London) Act 1998 (c. 34) (vehicle, other than a taxi or public service vehicle, seating fewer than nine passengers made available with a driver to the public for hire to carry passengers), omit "to the public".

Commencement Information

I43 S. 54 in force at 31.3.2008 for E.W. by S.I. 2007/3492, **art. 3**

Miscellaneous

55 Trunk road picnic areas

In section 112 of the Highways Act 1980 (c. 66) (provision of picnic sites and public conveniences for users of trunk roads)—

(a) in subsection (1)(power to provide trunk road picnic areas), omit "that is not a special road",

(b) in subsection (3) (power to manage), after "picnic area" insert " (including, in particular, by enforcing controls on parking there and recovering the costs of doing so) ",

(c) in subsection (4)(power to make arrangements for the provision of conveniences, facilities, meals or refreshments with anyone other than a council), omit ", other than a council,", and

(d) in subsection (5)(power to provide conveniences), omit "that is not a special road".

Commencement Information

I44 S. 55 in force at 28.1.2008 for E.W. by S.I. 2007/3492, **art. 2**

PROSPECTIVE

56 Vehicles modified to run on fuel stored under pressure

(1) The Road Traffic Act 1988 (c. 52) is amended as follows.

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(2) Section 41 (regulation of construction, weight, equipment and use of vehicles) is amended as follows.

(3) In subsection (2), after paragraph (b) insert—

"(ba) the modification of motor vehicles to enable them to be propelled using fuel stored under pressure,".

(4) After that subsection insert—

"(2A) Regulations under this section with respect to the modification of motor vehicles to enable them to be propelled using fuel stored under pressure may include provision—

(a) as to the examination, by persons authorised in accordance with regulations, of motor vehicles that have been so modified, the issuing of certificates by them in respect of such vehicles and the making of charges by them,

(b) requiring authorised persons to notify the Secretary of State of any such examinations carried out by them,

(c) as to appeals against any decision by an authorised person not to issue a certificate,

(d) as to applications to the Secretary of State for authorisation and charges in connection with them,

(e) imposing or providing for the imposition of conditions to be complied with by authorised persons,

(f) as to the withdrawal of authorisations."

(5) In section 66 (regulations prohibiting the grant of excise licences for certain vehicles except on compliance with certain conditions), after subsection (7) insert—

"(7A) The Secretary of State may by regulations provide, in relation to vehicles required to be examined and certified by regulations under section 41(2A)(a) of this Act, that the first licence for such a vehicle under the Vehicle Excise and Registration Act 1994 for a period after the requirement applies to the vehicle is to be granted only if evidence is provided that a certificate has been issued in accordance with those regulations."

PROSPECTIVE

[F5]57 Powers to regulate transport of radioactive material

. . . . . .

Textual Amendments

F5 S. 57 repealed (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 92**; S.I. 2014/251, art. 4

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58 Minor corrections

(1) In section 88(1) of the Road Traffic Act 1988 (c. 52) (exceptions to requirement to hold driving licence), after "any class" insert " at any time ".

(2) In section 105(5) of that Act (regulations: "the relevant provisions of the Road Traffic Offenders Act 1988"), after "34" insert " , 35 ".

(3) In section 45 of the Road Traffic Offenders Act 1988 (c. 53) (effect of endorsement)—
- (a) in subsection (6), for "that Act" substitute " the Road Traffic Act 1988 ", and
- (b) in subsection (7)(a), at the beginning insert " under ".

(4) In section 79(1) of that Act (statements by constables), for "54(3)" substitute " 54(4) ".

(5) In section 90 of that Act (index of expressions)—
- (a) in the entry relating to the expression "conditional offer", for "75(3)" substitute " 75(5) ", and
- (b) in the entry relating to "fixed penalty clerk", for "75(4)" substitute " 75(6) ".

(6) In Schedule 1 to that Act (offences to which certain sections apply), after the entry relating to section 94A of the Road Traffic Act 1988 insert—

"RTA section 99(5)	Driving licence holder failing to surrender licence and counterpart.	Section 6 of this Act."

Supplementary

59 Repeals and revocations

Schedule 7 contains repeals and revocations (including repeals of some spent enactments).

Commencement Information

I45 S. 59 partly in force at Royal Assent see s. 61
I46 S. 59 in force at 27.2.2007 for specified purposes by S.I. 2007/237, **art. 2(e)**
I47 S. 59 in force at 24.9.2007 for specified purposes by S.I. 2007/2472, **art. 2(n)**
I48 S. 59 in force at 5.1.2009 for specified purposes by S.I. 2008/3164, **art. 2(d)**
I49 S. 59 in force at 31.3.2009 for specified purposes by S.I. 2008/3164, **art. 3(d)**
I50 S. 59 in force at 1.4.2009 for specified purposes by S.I. 2008/3164, **art. 4(c)**

60 Power to make amendments

(1) The Secretary of State may by order make such amendments (including repeals and revocations) as may appear appropriate in consequence of any provision contained in this Act—
- (a) in any enactment contained in an Act passed, and
- (b) in any instrument made,

before, or in the same Session as that in which, the provision comes into force.

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(2) An order under subsection (1) may include any appropriate transitional provisions or savings.

(3) The power to make an order under subsection (1) is exercisable by statutory instrument.

(4) No order shall be made under subsection (1) unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

61 Commencement

(1) The preceding provisions of this Act come into force on such day as the Secretary of State may by order made by statutory instrument appoint (but subject to subsections (7) to (10)).

(2) Different days may be appointed for different purposes.

(3) Any provision of this Act which alters any penalty for an offence has effect only in relation to offences committed after the coming into force of the provision.

(4) Section 2B of the Road Traffic Act 1988 (c. 52) (inserted by section 20) has effect only in relation to driving occurring after the coming into force of that section; and section 3ZB of that Act (inserted by section 21) has effect only in relation to driving occurring after the coming into force of that section.

(5) In relation to an offence under section 2B or 3ZB of the Road Traffic Act 1988 committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the references in column 4 of Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) relating to offences under those sections have effect with the omission of the words "12 months (in England and Wales) or" and "(in Scotland)".

(6) The Secretary of State may by order made by statutory instrument make such transitional provisions and savings as he considers appropriate in connection with the coming into force of any provision of this Act.

(7) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
   (a) section 1, and
   (b) section 49.

(8) The day on which sections 8 and 9 and Schedule 2 (and the repeals contained in Schedule 7 under the heading "Endorsement: unlicensed and foreign drivers") come into force must be—
   (a) later than the day on which section 5 and Schedule 1 (and the repeals contained in Schedule 7 under the heading "Giving of fixed penalty notices by vehicle examiners") come into force, but
   (b) earlier than the day on which section 10 and Schedule 3 (and the repeals contained in Schedule 7 under the heading "Endorsement: all drivers") come into force.

(9) Sections 51, 58 and 60, and the repeals contained in Schedule 7 under the heading "Spent enactments" (and section 59 so far as relating to them), come into force on the day on which this Act is passed; but—

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(a) section 51(2) does not affect anything done or omitted to be done before that day, and

(b) section 58(6) has effect only in relation to offences committed on or after that day.

(10) Any power to make an order or regulations which is conferred by any provision of this Act may be exercised at any time after the passing of this Act.

62 Extent

(1) Section 1 extends only to England and Wales.

(2) Section 11(3) and Schedule 4, section 16 and section 51 extend only to England and Wales and Scotland.

(3) Section 49(2) extends only to Northern Ireland.

(4) Apart from the amendments made by sections 1 and 46, the amendments (and repeals and revocations) made by this Act have the same extent as the enactments and instruments amended (or repealed or revoked).

63 Short title

This Act may be cited as the Road Safety Act 2006.

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SCHEDULES

SCHEDULE 1

Section 5

GIVING OF FIXED PENALTY NOTICES BY VEHICLE EXAMINERS ETC.

Road Traffic Offenders Act 1988 (c. 53)

1 Part 3 of the Road Traffic Offenders Act 1988 (fixed penalties) is amended as follows.

Commencement Information
I51 Sch. 1 para. 1 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

2 In section 52(3)(c) (fixed penalty notice must state to whom and where fixed penalty may be paid), for the words from the beginning to "to" substitute " the person to ".

Commencement Information
I52 Sch. 1 para. 2 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

3 (1) Section 54 (notices on-the-spot or at a police station) is amended as follows.

(2) In subsection (1), after "uniform" insert " , or a vehicle examiner who produces his authority, ".

(3) In subsection (2), after "constable" insert " or vehicle examiner ".

(4) In subsection (3), after "constable", in each place, insert " or vehicle examiner ".

(5) In subsection (4)—

(a) after "constable", in the first three places, insert " or vehicle examiner ",

(b) for ", within seven days after the notice is given, he produces" substitute " he delivers ", and

(c) for the words from "person to" to "person concerned)" substitute " accordance with subsection (4A) below ".

(6) After that subsection insert—

"(4A) Delivery must—

(a) if the notice is given by a constable, be made in person, within seven days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or

(b) if the notice is given by a vehicle examiner, be made (either by post or in person), within fourteen days after the notice is given, to the Secretary of State at the place specified in the notice."

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(7) In subsection (5)—

(a) for "produces" substitute " delivers ",

(b) for the words from "person to a" to "to him" substitute " accordance with subsection (4A) above ",

(c) in paragraph (a) and in the words following paragraph (b), for "constable or authorised person" substitute " person to whom the notice under subsection (4) above is delivered ",

(d) omit "he surrenders", and

(e) for "to the constable or authorised person" substitute " are delivered ".

(8) In subsection (7)—

(a) after "surrendered" insert " or delivered ", and

(b) insert at the end " if the fixed penalty notice was given by a constable or authorised person ".

(9) In the heading, for **"or at a police station"** substitute " etc. "

Commencement Information

I53 Sch. 1 para. 3 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

4 (1) Section 56 (licence receipts) is amended as follows.

(2) In subsection (1)—

(a) for "constable or authorised person" substitute " person ", and

(b) after "surrenders" insert " or delivers ".

(3) In subsection (2)—

(a) for "The" substitute " Where the duty in section 54(7) of this Act applies, the ", and

(b) after "surrendered" insert " or delivered ".

(4) In subsection (3)—

(a) for "by a constable or authorised person" substitute " under subsection (1) above ", and

(b) for "by the fixed penalty clerk" substitute " under subsection (2) above ".

Commencement Information

I54 Sch. 1 para. 4 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

5 (1) Section 57 (endorsement of licences without hearings) is amended as follows.

(2) In subsection (1), for the words from "has surrendered" to "this Act," substitute " has been given a fixed penalty notice under section 54 of this Act in respect of an offence involving obligatory endorsement, ".

(3) In subsection (3), for "fixed penalty clerk" substitute " person to whom it is paid ".

(4) In subsection (4)—

(a) for "fixed penalty clerk" substitute " person to whom the fixed penalty is required to be paid ", and

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(b) for "the clerk", in both places, substitute " the person ".

(5) In subsection (6)—

(a) for "On endorsing" substitute " Where the endorsement of ", and

(b) after "section" insert " is made by the fixed penalty clerk, ".

Commencement Information

I55 Sch. 1 para. 5 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

6 (1) Section 61 (fixed penalty notice mistakenly given: exclusion of fixed penalty procedures) is amended as follows.

(2) In subsection (1)—

(a) for "sent to him under section 54(7)" substitute " surrendered or delivered under section 54 ", and

(b) after "clerk" insert " or the Secretary of State ".

(3) In subsection (2)—

(a) omit "fixed penalty clerk must not endorse the",

(b) before "under" insert " must not be endorsed ", and

(c) after "but" insert " if it was sent to the fixed penalty clerk he ".

Commencement Information

I56 Sch. 1 para. 6 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

7 In section 62(1) (fixing notices to vehicles), after "constable" insert " or a vehicle examiner ".

Commencement Information

I57 Sch. 1 para. 7 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

8 (1) Section 63 (service of notice to owner if penalty not paid) is amended as follows.

(2) In subsection (2), for "chief officer of police" substitute " relevant person ".

(3) After that subsection insert—

"(2A) In this section "the relevant person" means—

(a) if the fixed penalty notice was fixed by a constable, the chief officer of police, and

(b) if it was fixed by a vehicle examiner, the Secretary of State."

(4) In subsection (4)(c), for "chief officer of police by or on whose behalf the notice was served" substitute " relevant person ".

Commencement Information

I58 Sch. 1 para. 8 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

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9 (1) Section 66 (hired vehicles) is amended as follows.

(2) In subsection (1)(c), for "chief officer of police by or on whose behalf the notice was served" substitute " relevant person ".

(3) In subsection (5), for "chief officer of police" substitute " person ".

(4) In subsection (8), after the definition of "hiring agreement" insert—

""relevant person" means—

(a) if the fixed penalty notice was fixed by a constable, the chief officer of police by or on whose behalf the notice to owner was served, and

(b) if it was fixed by a vehicle examiner, the Secretary of State, and".

Commencement Information

I59 Sch. 1 para. 9 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

10 In section 68(4) (meaning of "official form"), after "police" insert " or the Secretary of State ".

Commencement Information

I60 Sch. 1 para. 10 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

11 (1) Section 69 (payment of fixed penalty) is amended as follows.

(2) In subsection (1), for "Payment of a fixed penalty under this Part of this Act" substitute " Where a fixed penalty notice has been given or fixed by a constable or authorised person under this Part of this Act, payment of the fixed penalty ".

(3) After that subsection insert—

"(1A) Where a fixed penalty notice has been given or fixed by a vehicle examiner, or given by the Secretary of State, under this Part of this Act, payment of the fixed penalty must be made to the Secretary of State."

(4) In subsection (3), after "clerk" insert " , or the Secretary of State, ".

Commencement Information

I61 Sch. 1 para. 11 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

12 (1) Section 70 (registration certificates) is amended as follows.

(2) In subsection (2), for "chief officer of police" substitute " relevant person ".

(3) After that subsection insert—

"(2A) In subsection (2) above "the relevant person" means—

(a) if the fixed penalty notice in question was given or fixed by a constable or given by an authorised person, the chief officer of police, and

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(b) if it was given or fixed by a vehicle examiner or given by the Secretary of State, the Secretary of State."

(4) In subsection (3), for "fixed penalty clerk" substitute " appropriate person ".

(5) After that subsection insert—

"(3A) In subsection (3) above "the appropriate person" means—

(a) if the fixed penalty notice in question was given or fixed by a constable or given by an authorised person, the fixed penalty clerk, and

(b) if it was given or fixed by a vehicle examiner or given by the Secretary of State, the Secretary of State."

(6) In subsection (4), for "the chief officer of police or the fixed penalty clerk" substitute " a person ".

Commencement Information

I62 Sch. 1 para. 12 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

13 (1) Section 72 (notices on-the-spot or at a police station: when registration and endorsement invalid) is amended as follows.

(2) In subsection (4), after "surrendered" insert " or delivered ".

(3) In the heading, for **"or at a police station"** substitute " etc. "

Commencement Information

I63 Sch. 1 para. 13 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

14 (1) Section 73 (notices fixed to vehicles: when registration invalid) is amended as follows.

(2) In subsection (4), for—

(a) "the chief officer of police", and

(b) "that chief officer of police",

substitute " the relevant person ".

(3) After that subsection insert—

"(4A) In subsection (4) above "the relevant person" means—

(a) if the fixed penalty notice concerned was fixed by a constable, the fixed penalty clerk, and

(b) if it was fixed by a vehicle examiner, the Secretary of State."

(4) In subsection (5), omit—

(a) "by or on behalf of the chief officer of police", and

(b) "such".

(5) In subsection (7)—

(a) omit "by or on behalf of the chief officer of police", and

(b) for "he" substitute " the person by whom it is served ".

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I64 Sch. 1 para. 14 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

15 (1) Section 75 (issue of conditional offer) is amended as follows.

(2) After subsection (1) insert—

"(1A) Where in England and Wales—

(a) a vehicle examiner has reason to believe that a fixed penalty offence has been committed, and

(b) no fixed penalty notice in respect of the offence has been given under section 54 of this Act or fixed to a vehicle under section 62 of this Act,

a notice under this section may be sent to the alleged offender by the Secretary of State."

(3) After subsection (3A) insert—

"(3B) Where in Scotland a vehicle examiner—

(a) on any occasion has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence, he may hand to that person,

(b) in any case has reason to believe that a fixed penalty offence has been committed, he or another person authorised in that respect by the Secretary of State may send to the alleged offender,

a notice under this section."

(4) In subsection (4), for "and (3)" substitute " to (3B) ".

(5) In subsection (6), for "person issues a conditional offer" substitute " conditional offer is issued by a person under subsection (1), (2) or (3) above ".

(6) In subsection (8), for—

(a) "the fixed penalty clerk", and

(b) "that clerk", in both places,

substitute " the appropriate person ".

(7) After subsection (11) insert—

"(11A) In this section and sections 76 and 77 of this Act "the appropriate person" means—

(a) where the conditional offer was issued under subsection (1), (2) or (3) above, the fixed penalty clerk, and

(b) where the conditional offer was issued under subsection (1A) or (3B) above, the Secretary of State."

Commencement Information
I65 Sch. 1 para. 15 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

16 (1) Section 76 (effect of order and payment of penalty) is amended as follows.

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(2) In subsection (1), for "sent" substitute " issued ".

(3) For subsections (2) to (5) substitute—

"(2) Where the alleged offender makes payment of the fixed penalty in accordance with the conditional offer, no proceedings shall be brought against him for the offence to which the offer relates unless subsection (3) below applies.

(3) This subsection applies where—

(a) it appears to the appropriate person, on inspecting the licence and its counterpart, that the alleged offender would be liable to be disqualified under section 35 of this Act if he were convicted of the offence to which the conditional offer relates,

(b) the appropriate person returns the payment to the alleged offender together with his licence and its counterpart, and

(c) where the appropriate person is not the Secretary of State, the appropriate person gives notice that he has done so to the person required to be notified.

(4) Where the requirements specified in the conditional offer in accordance with sub-paragraphs (i) and (ii) of section 75(8)(a) of this Act have not been fulfilled, no proceedings shall be brought against the alleged offender for the offence to which the offer relates—

(a) until the end of the period of twenty-eight days following the date on which the conditional offer was made, or such longer period as may be specified in the offer, and

(b) where the appropriate person is not the Secretary of State, unless the appropriate person notifies the person required to be notified that proceedings may be brought by virtue of this subsection.

(5) In this section and section 77 of this Act "the person required to be notified" means—

(a) if the conditional offer was issued under subsection (1) of section 75 of this Act, the chief officer of police,

(b) if it was issued under subsection (2) of that section, the procurator fiscal, and

(c) if it was issued under subsection (3) of that section, the chief constable or (as the case may be) the chief constable of the British Transport Police Force."

(4) In subsection (6), for "(4)(b)" substitute " (3)(a) ".

(5) In subsection (7), for—

(a) "the fixed penalty clerk", and

(b) "that clerk",

substitute " the appropriate person ".

(6) In subsection (8), for "(4)" substitute " (3) ".

(7) In subsection (9), for "(2)(b)" substitute " (5)(b) or (c) ".

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Commencement Information
I66 Sch. 1 para. 16 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

17 (1) Section 77 (endorsement where penalty paid) is amended as follows.

(2) In paragraph (a) of subsection (1), for—
(a) "the fixed penalty clerk", and
(b) "the clerk",
substitute " the appropriate person ".

(3) For paragraph (b) of that subsection substitute—
"(b) proceedings against the alleged offender for the offence to which the conditional offer relates are excluded by section 76 of this Act,".

(4) In the words following that paragraph, for "clerk" substitute " appropriate person ".

(5) In subsection (2), for "it appears to a fixed penalty clerk in Scotland" substitute " in Scotland it appears to the appropriate person ".

(6) In subsection (3)—
(a) for "a clerk" substitute " the appropriate person ",
(b) for "the clerk" substitute " unless the appropriate person is the Secretary of State, the appropriate person ", and
(c) for "referred to in section 76(2)(a) or (b) of this Act" substitute " required to be notified ".

(7) In subsection (4), for "after a notice has been given in pursuance of subsection (3)(b) above" substitute " where subsection (3) above applies ".

(8) In subsection (6), for "The fixed penalty clerk" substitute " Where the appropriate person is the fixed penalty clerk, he ".

Commencement Information
I67 Sch. 1 para. 17 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

18 (1) Section 79 (statements by constables) is amended as follows.

(2) In subsection (1)—
(a) after "constable", in the first place, insert " or vehicle examiner ",
(b) for "constable's" substitute " relevant ", and
(c) omit "constable or authorised".

(3) In subsection (2)—
(a) for "constable's" substitute " relevant ", and
(b) after "committed" insert " or on behalf of the Secretary of State ".

(4) In subsections (4) and (5), for "constable's" substitute " relevant ".

(5) In subsection (6), for "production of the notice under section 54(5) at a police station in accordance with that section" substitute " delivery of the notice ".

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Commencement Information
I68 Sch. 1 para. 18 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

19 In section 80 (certificates about payment), for "fixed penalty clerk", in both places, substitute " person to whom it was required to be paid ".

Commencement Information
I69 Sch. 1 para. 19 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

20 In section 82(1) (accounting for fixed penalties), after "paid" insert " to the fixed penalty clerk ".

Commencement Information
I70 Sch. 1 para. 20 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

21 (1) Section 83 (powers of court where clerk deceived) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after "fixed penalty clerk" insert " or the Secretary of State ", and

(b) in paragraph (b), for the words from "Act the" to "the counterpart" substitute " Act the appropriate person is deceived as to whether proceedings against the person are excluded by section 76 of this Act ".

(3) In the heading, for **"where clerk deceived"** substitute " in cases of deception ".

Commencement Information
I71 Sch. 1 para. 21 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

22 In section 84(1) (regulations), for "75(2) and (3) or 76(5) and (6)" substitute " 75(1), (1A), (2), (3) or (3B) or 76(3)(c) or (4)(b) ".

Commencement Information
I72 Sch. 1 para. 22 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

23 In section 89(1) (interpretation), after the definition of "proceedings" insert "and

"vehicle examiner" means an examiner appointed under section 66A of the Road Traffic Act 1988."

Commencement Information
I73 Sch. 1 para. 23 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

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Road Traffic (New Drivers) Act 1995 (c. 13)

24 The Road Traffic (New Drivers) Act 1995 is amended as follows.

Commencement Information
I74 Sch. 1 para. 24 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

25 (1) Section 2 (surrender of licences) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (a)—

(i) after "1988" insert " , retained by a vehicle examiner under that section ", and

(ii) for "fixed penalty clerk in" substitute " appropriate person in ", and

(b) in paragraphs (c), (d) and (f), for "fixed penalty clerk" substitute " appropriate person ".

(3) In subsection (4)—

(a) omit ", the fixed penalty clerk",

(b) in paragraph (a), insert at the beginning " the appropriate person ", and

(c) in paragraph (b), insert at the beginning " unless the appropriate person is the Secretary of State, he ".

(4) In subsection (5), omit "by the fixed penalty clerk".

(5) After subsection (6) insert—

"(7) In this section and section 3—

"the appropriate person", in relation to a fixed penalty notice, means—

(a) if it was given by a constable or an authorised person, the fixed penalty clerk, and

(b) if it was given by a vehicle examiner or the Secretary of State, the Secretary of State, and

"the appropriate person", in relation to a conditional offer, means—

(a) where the conditional offer was issued under subsection (1), (2) or (3) of section 75 of the Road Traffic Offenders Act 1988, the fixed penalty clerk, and

(b) where it was issued under subsection (1A) or (3B) of that section, the Secretary of State."

Commencement Information
I75 Sch. 1 para. 25 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

26 (1) Section 3 (revocation of licences) is amended as follows.

(2) In subsection (1), for "(4)" substitute " (4)(b) ".

(3) After that subsection insert—

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"(1ZA) Where section 2(4)(a) applies but the appropriate person is the Secretary of State, the Secretary of State must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued, revoke that person's licence."

(4) In subsections (1A) and (1B), after "subsection (1)" insert " or (1ZA) ".

(5) In subsection (2), for "subsection (1) or (1B)" substitute " this section ".

Commencement Information
I76 Sch. 1 para. 26 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

27 (1) Schedule 1 (newly qualified drivers holding test certificates) is amended as follows.

(2) In paragraph 1, after sub-paragraph (2) insert—

"(2A) In this Schedule "the appropriate person" has the same meaning as in sections 2 and 3 of this Act."

(3) In paragraph 3(4)—

(a) in paragraph (a), for "fixed penalty clerk", in both places, substitute " appropriate person ",

(b) in paragraph (c), for "fixed penalty clerk" substitute " appropriate person ", and

(c) in the words following paragraph (c), for "fixed penalty clerk to whom the payment is made" substitute " appropriate person ".

(4) In paragraph 4(3)—

(a) in paragraph (b), for "fixed penalty clerk" substitute " appropriate person ", and

(b) for the words following paragraph (c) substitute " section 2(4) does not apply but if the appropriate person is the fixed penalty clerk sub-paragraph (4) applies instead. "

(5) In paragraph 5—

(a) after sub-paragraph (1) insert—

"(1ZA) Where section 2(4) is disapplied by paragraph 4(3) and the appropriate person is the Secretary of State, the Secretary of State must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued revoke that person's test certificate.",

(b) in sub-paragraphs (1A) and (1B), after "sub-paragraph (1)" insert " or (1ZA) ", and

(c) in sub-paragraph (2), for "sub-paragraph (1) or (1B)" substitute " this paragraph ".

(6) In paragraph 6(1), after "paragraph 5(1)" insert " or (1ZA) ".

(7) In paragraph 7—

(a) in sub-paragraph (3)(b), for "fixed penalty clerk" substitute " appropriate person ", and

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(b) in sub-paragraph (4)—

(i) for "fixed penalty clerk" substitute " appropriate person ", and

(ii) at the beginning of paragraph (b) insert " unless the appropriate person is the Secretary of State, ".

(8) In paragraph 8—

(a) after sub-paragraph (1) insert—

"(1ZA) Where paragraph 7(4) applies and the appropriate person is the Secretary of State, the Secretary of State must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued revoke that person's licence and test certificate.",

(b) in sub-paragraphs (1A) and (1B), after "sub-paragraph (1)" insert " or (1ZA) ", and

(c) in sub-paragraph (2), for "sub-paragraph (1) or (1B)" substitute " this paragraph ".

(9) In paragraph 9, after "paragraph 8(1)" insert " or (1ZA) ".

(10) In paragraph 10(a), after—

(a) "paragraph 5(1)", and

(b) "paragraph 8(1)",

insert " or (1ZA) ".

Commencement Information

I77 Sch. 1 para. 27 in force at 31.3.2009 by S.I. 2008/3164, **art. 3(b)**

SCHEDULE 2

Section 9

ENDORSEMENT: UNLICENSED AND FOREIGN DRIVERS

Public Passenger Vehicles Act 1981 (c. 14)

1 (1) Section 24 of the Public Passenger Vehicles Act 1981 (regulation of conduct of drivers, inspectors and conductors) is amended as follows.

(2) In subsection (2), insert at the end " or, if he is not the holder of a licence (within the meaning of Part 3 of the Road Traffic Act 1988), on his driving record (within the meaning of section 97A of the Road Traffic Offenders Act 1988) ".

(3) In subsection (3)—

(a) for "the licence and its counterpart" substitute " any counterpart of a licence which is to be endorsed under subsection (2) above ", and

(b) for "them" substitute " it and the licence ".

Commencement Information

I78 Sch. 2 para. 1 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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Road Traffic Offenders Act 1988 (c. 53)

2 The Road Traffic Offenders Act 1988 is amended as follows.

Commencement Information
I79 Sch. 2 para. 2 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

3 In section 28(3) (penalty points to be attributed to an offence), for "and 77(5)" substitute " , 57A(6), 77(5) and 77A(8) ".

Commencement Information
I80 Sch. 2 para. 3 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

4 In section 29(1)(b) (penalty points to be taken into account on conviction), after "him" insert " or on his driving record ".

Commencement Information
I81 Sch. 2 para. 4 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

5 (1) Section 30 (modification of sections 28 and 29 in case where fixed penalty also in question) is amended as follows.

(2) In subsection (1)(b)—
(a) after "licence" insert " or his driving record ", and
(b) for "or 77" substitute " , 57A, 77 or 77A ".

(3) In subsection (2)(b)—
(a) after "licence" insert " or on his driving record ", and
(b) for "or 77" substitute " , 57A, 77 or 77A ".

Commencement Information
I82 Sch. 2 para. 5 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

6 (1) Section 31 (court may take particulars endorsed on licence into consideration) is amended as follows.

(2) For subsection (1) substitute—

"(1) Where a person is convicted of an offence involving obligatory or discretionary disqualification—
(a) any existing endorsement on the counterpart of his licence or on his driving record is prima facie evidence of the matters endorsed, and
(b) the court may, in determining what order to make in pursuance of the conviction, take those matters into consideration."

(3) In the heading, omit **"on licence"**.

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Commencement Information
I83 Sch. 2 para. 6 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

7 In section 36 (disqualification until test passed), after subsection (10) insert—

"(10A) Where a person's driving record is endorsed with particulars of a disqualification under 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."

Commencement Information
I84 Sch. 2 para. 7 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

8 (1) Section 42 (removal of disqualification) is amended as follows.

(2) In subsection (5), for paragraph (a) substitute—

"(a) must—

(i) if particulars of the disqualification were previously endorsed on the counterpart of any licence previously held by the applicant, cause particulars of the order to be endorsed on that counterpart, and

(ii) if particulars of the disqualification were previously endorsed on the driving record of the applicant, send notice of the order to the Secretary of State,".

(3) In subsection (5A), for "(5)(a)" substitute " (5)(a)(i) ".

(4) After that subsection insert—

"(5AA) If the disqualification was imposed in respect of an offence involving obligatory endorsement, the Secretary of State must, on receiving notice of an order under subsection (5)(a)(ii) above, make any necessary adjustments to the endorsements on the person's driving record to reflect the order."

(5) In subsection (5B), after "subsection" insert " (5)(a)(ii) or ".

Commencement Information
I85 Sch. 2 para. 8 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

9 (1) Section 45 (effect of endorsement) is amended as follows.

(2) In subsection (1), omit ", whether he is at the time the holder of a licence or not,".

(3) In the heading, insert at the end " of counterparts ".

Commencement Information
I86 Sch. 2 para. 9 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

10 After that section insert—

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"**45A Effect of endorsement of driving records**

(1) An order that any particulars or penalty points are to be endorsed on a person's driving record shall operate as an order that his driving record is to be so endorsed until the end of the period for which the endorsement remains effective.

(2) At the end of the period for which the endorsement remains effective the Secretary of State must remove the endorsement from the person's driving record.

(3) On the issue of a new licence to a person, any particulars ordered to be endorsed on his driving record shall be entered on the counterpart of the licence unless he has become entitled under subsection (4) below to have a licence issued to him with its counterpart free from those particulars or penalty points.

(4) A person the counterpart of whose licence has been endorsed under subsection (3) above is entitled to have issued to him with effect from the end of the period for which the endorsement remains effective a new licence with a counterpart free from the endorsement if he applies for a new licence in pursuance of section 97(1) of the Road Traffic Act 1988, surrenders any subsisting licence and its counterpart, pays the fee prescribed by regulations under Part 3 of that Act and satisfies the other requirements of section 97(1).

(5) The period for which an endorsement remains effective is determined in accordance with section 45(5) to (7) of this Act."

Commencement Information
I87 Sch. 2 para. 10 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

11 (1) Section 46 (combination of disqualification and endorsement with certain other orders) is amended as follows.

(2) In subsection (1), for "or 44" substitute " , 44 or 44A ".

(3) In subsection (2)(b), insert at the end " or on his driving record ".

(4) In subsection (3), for "and 45" substitute " , 45 and 45A ".

Commencement Information
I88 Sch. 2 para. 11 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

12 (1) Section 47 (supplementary provisions as to disqualification and endorsements) is amended as follows.

(2) In subsection (3), after "licence" insert " or a driving record ".

(3) After that subsection insert—

"(3A) On receiving such a notice in relation to a person who is not the holder of a licence, the Secretary of State must make any necessary adjustments to the

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endorsements on the person's driving record to reflect the outcome of the appeal."

Commencement Information
I89 Sch. 2 para. 12 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

13 In section 48(1)(b) and (2)(b) (exemption from disqualification and endorsement for certain construction and use offences), after "him" insert " or on his driving record ".

Commencement Information
I90 Sch. 2 para. 13 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

14 (1) Section 54 (notices on-the-spot etc.) is amended as follows.

(2) In subsection (2), for "subsection (3) below" substitute " the following provisions of this section ".

(3) In subsection (3), after "endorsement" insert " , and the person is the holder of a licence, ".

(4) In subsection (4)—

(a) for the word "and" at the end of paragraph (a) substitute—

"(aa) the person concerned is the holder of a licence, and",

(b) in paragraph (b), for "the person concerned" substitute " he ".

(5) In subsection (6), after "subsection (4)" insert " or (5C) ".

(6) In subsection (10), for "subsections (3)(b) and (5)(a) above" substitute " this section ".

Commencement Information
I91 Sch. 2 para. 14 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

15 (1) Section 57 (endorsement without hearings) is amended as follows.

(2) In subsection (1), after "a person" insert " who is the holder of a licence ".

(3) In the heading, for **"licences"** substitute " counterparts ".

Commencement Information
I92 Sch. 2 para. 15 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

16 In section 58 (effect of endorsement without hearing), in the heading, after **"endorsement"** insert " of counterpart ".

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Commencement Information
I93 Sch. 2 para. 16 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

17 After that section insert—

"**58A Effect of endorsement of driving record without hearing**

(1) Where a person's driving record is endorsed under section 57A of this Act he shall be treated for the purposes of sections 13(4), 28, 29 and 45A of this Act and of the Rehabilitation of Offenders Act 1974 as if—
  (a) he had been convicted of the offence,
  (b) the endorsement had been made in pursuance of an order made on his conviction by a court under section 44 of this Act, and
  (c) the particulars of the offence endorsed by virtue of section 57A(6)(a) of this Act were particulars of his conviction of that offence.

(2) In relation to any endorsement of a person's driving record under section 57A of this Act, the references in section 13(4) of this Act to any order made on a person's conviction are to be read as references to the endorsement itself."

Commencement Information
I94 Sch. 2 para. 17 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

18 In section 61 (fixed penalty notice mistakenly given: exclusion of fixed penalty procedures), in the heading, after **"given"** insert " to licence holder ".

Commencement Information
I95 Sch. 2 para. 18 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

19 After that section insert—

"**61A Fixed penalty notice mistakenly given to unlicensed person: exclusion of fixed penalty procedures**

(1) This section applies where, on accessing information held on the driving record of a person to whom a fixed penalty notice was given under section 54 of this Act, but who is not the holder of a licence, it appears to the fixed penalty clerk or the Secretary of State that the person would be liable to be disqualified under section 35 of this Act if he were convicted of the offence in respect of which the fixed penalty notice was given.

(2) The person's driving record must not be endorsed under section 57A of this Act.

(3) In a case where the fixed penalty is required to be paid to the fixed penalty clerk he must not send notice to the Secretary of State under section 57A of this Act but instead must notify the chief officer of police that the person to whom the fixed penalty notice was given would be liable to be disqualified

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under section 35 of this Act if he were convicted of the offence in respect of which the fixed penalty notice was given.

(4) Nothing in this Part of this Act prevents proceedings being brought in respect of the offence in respect of which the fixed penalty notice was given where those proceedings are commenced before the end of the period of six months beginning with the date on which that notice was given.

(5) Where proceedings in respect of that offence are commenced before the end of that period, the case is from then on to be treated in all respects as if no fixed penalty notice had been given in respect of the offence.

(6) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of this Part of this Act by reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision—

(a) the registration under section 71 of this Act of any sum, determined by reference to the fixed penalty for that offence, for enforcement against the person to whom the fixed penalty notice was given, and

(b) any proceedings for enforcing payment of any such sum within the meaning of sections 73 and 74 of this Act (defined in section 74(5))).

(7) 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 1 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."

Commencement Information
I96 Sch. 2 para. 19 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

20 In section 69(4) (payment of penalty), for "77" substitute " 77A ".

Commencement Information
I97 Sch. 2 para. 20 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

21 (1) In section 70(4) (registration certificates), after paragraph (b) insert "and

(c) otherwise—

(i) if the offence to which the fixed penalty notice or conditional offer relates was committed in England or Wales, cause it to be sent to the designated officer for the local justice area in which the offence was committed, or

(ii) if the offence was committed in Scotland, cause it to be sent to the clerk of a court of summary jurisdiction for the area in which the offence was committed."

(2) An order under section 61 may provide that sub-paragraph (1) is to come into force only in relation to an area specified in the order.

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(3) If such an order provides that sub-paragraph (1) is to come into force only in relation to an area specified in the order, it may also provide that (unless continued in force by a subsequent order) sub-paragraph (1) is to remain in force there only for a period specified in the order.

Commencement Information

I98 Sch. 2 para. 21 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

22 (1) Section 71 (registration of sums payable in default) is amended as follows.

(2) In subsection (1), after paragraph (a) insert " or " and after paragraph (c) insert "or

(d) if it appears to him that the defaulter does not reside in England, Wales or Scotland—

(i) in a case where the offence to which the fixed penalty notice or conditional offer relates was committed in the local justice area for which he is the designated officer, he must register that sum for enforcement as a fine in that area by entering it in the register of a magistrates' court acting in that area,

(ii) in a case where it was committed in another local justice area in England and Wales, he must send the certificate to the designated officer for that area, and

(iii) in a case where it was committed in Scotland, he must send the certificate to the clerk of a court of summary jurisdiction for the area in which the offence was committed."

(3) In subsection (2), after paragraph (a) insert " or " and after paragraph (c) insert "or

(d) if it appears to him that the defaulter does not reside in England, Wales or Scotland—

(i) in a case where the offence to which the fixed penalty notice or conditional offer relates was committed in the area of the court, he must register that sum for enforcement as a fine by that court,

(ii) in a case where it was committed in an area of any other court of summary jurisdiction in Scotland, he must send the certificate to the clerk of that court, and

(iii) in a case where it was committed in England or Wales, he must send the certificate to the designated officer for the local justice area in which the offence was committed."

(4) An order under section 61 may provide that sub-paragraphs (1) to (3) are to come into force only in relation to an area specified in the order.

(5) If such an order provides that sub-paragraphs (1) to (3) are to come into force only in relation to an area specified in the order, it may also provide that (unless continued in force by a subsequent order) sub-paragraphs (1) to (3) are to remain in force there only for a period specified in the order.

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Commencement Information
I99 Sch. 2 para. 22 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

23 (1) Section 72 (notices on-the-spot etc.: when registration and endorsement invalid) is amended as follows.

(2) After subsection (4) insert—

"(4A) Where in any case within subsection (2)(a) above the driving record of the person to whom the relevant fixed penalty notice was given was endorsed under section 57A of this Act in respect of the offence in respect of which the notice was given, the endorsement shall be void."

(3) In subsection (5)(a), after "57" insert " or 57A ".

(4) After subsection (6) insert—

"(6A) The proper officer of the relevant court must send notice to the Secretary of State of any endorsement of a person's driving record that is void by virtue of this section and the Secretary of State must adjust the endorsements on that record accordingly."

Commencement Information
I100 Sch. 2 para. 23 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

24 (1) Section 75 (issue of conditional offer) is amended as follows.

(2) In subsection (5), for "and 77" substitute " , 77 and 77A ".

(3) In subsection (6), for "and 77" substitute " , 77 and 77A ".

(4) In subsection (8), after "conditional offer" insert " sent to an alleged offender who is the holder of a licence ".

(5) After subsection (8) insert—

"(8A) A conditional offer sent to an alleged offender who is not the holder of a licence must indicate that if the following conditions are fulfilled, that is—

(a) within the period of twenty-eight days following the date on which the offer was issued, or such longer period as may be specified in the offer, the alleged offender makes payment of the fixed penalty to the appropriate person, and

(b) the appropriate person is satisfied, on accessing information held on the driving record of the alleged offender, that if he were convicted of the offence, he would not be liable to be disqualified under section 35 of this Act,

any liability to conviction of the offence shall be discharged."

(6) In subsection (9)—

(a) for "condition" substitute " conditions ", and

(b) after "(8)(b)" insert " and (8A)(b) ".

(7) In subsection (11A), for "and 77" substitute " , 77 and 77A ".

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Commencement Information
I101 Sch. 2 para. 24 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

25 (1) Section 76 (effect of offer and payment of penalty) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (a), after "counterpart" insert " or (where the alleged offender is not the holder of a licence) accessing information held on his driving record ", and

(b) in paragraph (b), after "with" insert " (where he is the holder of a licence) ".

(3) In subsection (4), after "75(8)(a)" insert " or (8A)(a) ".

Commencement Information
I102 Sch. 2 para. 25 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

26 (1) Section 77 (endorsement where penalty paid) is amended as follows.

(2) In subsection (1)(a), after "a person" insert " who is the holder of a licence ".

(3) In the heading, after **"endorsement"** insert " of counterparts ".

Commencement Information
I103 Sch. 2 para. 26 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

27 After that section insert—

"**77A Endorsement of driving records where penalty paid**

(1) Where—

(a) in pursuance of a conditional offer issued under subsection (1), (2) or (3) of section 75 of this Act a person who is not the holder of a licence (referred to in this section as the "alleged offender") makes payment of the fixed penalty to the fixed penalty clerk, and

(b) proceedings against the alleged offender for the offence to which the conditional offer relates are excluded by section 76 of this Act,

the fixed penalty clerk must forthwith send to the Secretary of State notice of the relevant particulars to be endorsed on the alleged offender's driving record.

(2) The Secretary of State must endorse the relevant particulars on a person's driving record—

(a) on receiving notice under subsection (1) above, or

(b) if, in pursuance of a conditional offer issued under subsection (1A) or (3B) of section 75 of this Act, a person who is not the holder of a licence (also referred to in this section as the "alleged offender") makes payment of the fixed penalty to him and proceedings against the alleged offender are excluded by section 76 of this Act.

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(3) Where in Scotland the appropriate person is the fixed penalty clerk and it appears to him that there is an error in an endorsement made by virtue of this section on a person's driving record, he may send to the Secretary of State notice of the error.

(4) Subject to subsection (5) below, where a cheque tendered in payment is subsequently dishonoured—

(a) any endorsement made by the Secretary of State under subsection (2) above remains effective notwithstanding that the alleged offender is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and

(b) unless the appropriate person is the Secretary of State, the appropriate person must upon expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the person required to be notified that no payment has been made.

(5) When proceedings are brought against an alleged offender where subsection (4) above applies, the court—

(a) must order the removal of the fixed penalty endorsement from the driving record of the alleged offender,

(b) may, on finding the alleged offender guilty, make any competent order of endorsement or disqualification and pass any competent sentence, and

(c) must send to the Secretary of State notice of any order made under paragraph (a) or (b) above.

(6) On receiving notice under subsection (3) above, the Secretary of State may correct the error in the endorsement on the driving record; and any endorsement corrected shall be treated for all purposes as if it had been correctly made on receipt of the fixed penalty.

(7) On receiving a notice under subsection (5)(c) above, the Secretary of State must make any necessary adjustments to the endorsements on the alleged offender's driving record.

(8) The references in subsection (1) and (2) above to the relevant particulars are to—

(a) particulars of the offence, including the date when it was committed, and

(b) the number of penalty points to be attributed to the offence.

(9) Where a person's driving record is endorsed under this section he shall be treated for the purposes of sections 13(4), 28, 29 and 45A of this Act and of the Rehabilitation of Offenders Act 1974 as if—

(a) he had been convicted of the offence,

(b) the endorsement had been made in pursuance of an order made on his conviction by a court under section 44 of this Act, and

(c) the particulars of the offence endorsed by virtue of subsection (8)(a) above were particulars of his conviction of that offence.

(10) In relation to any endorsement of a person's driving record under this section, the references in section 13(4) of this Act to any order made on a person's conviction are to be read as references to the endorsement itself.”

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Commencement Information
I104 Sch. 2 para. 27 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

28 (1) Section 83 (powers of court in cases of deception) is amended as follows.

(2) After subsection (1) insert—

"(1A) This section also applies where—

(a) particulars are endorsed on a person's driving record under section 57A of this Act because the fixed penalty clerk or the Secretary of State is deceived as to whether endorsement under that section is excluded by section 61A(2) of this Act by virtue of the fact that the person to whom the fixed penalty notice was given would be liable to be disqualified under section 35 of this Act if he were convicted of the offence, or

(b) particulars are endorsed on a person's driving record under section 77A of this Act because the appropriate person or court is deceived as to whether proceedings against the person are excluded by section 76 of this Act by virtue of the fact that the person to whom the conditional offer is issued would be liable to be disqualified under section 35 of this Act if he were convicted of the offence."

(3) In subsection (2)—

(a) in paragraph (a), for "licence holder" substitute " person to whom the fixed penalty notice was given or conditional offer was issued ",

(b) in paragraph (b), for "the licence holder" substitute " he ",

(c) after "57" insert " or 57A ", and

(d) after "77" insert " or 77A ".

Commencement Information
I105 Sch. 2 para. 28 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

29 In section 84(1) (regulations), after "54(4)" insert " or (5C) ".

Commencement Information
I106 Sch. 2 para. 29 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

30 After section 84 insert—

"**84A Notices to Secretary of State**

Any notice sent to the Secretary of State under this Part must be sent in such manner and to such address and contain such particulars as the Secretary of State may determine."

Commencement Information
I107 Sch. 2 para. 30 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

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31 In section 91ZA(1) (application to Northern Ireland licence holders)—

(a) in paragraph (i), after "44(1)" insert " and (3A) ", and

(b) in paragraph (k), for "and (3)" substitute " , (3) and (3A) ".

Commencement Information

I108 Sch. 2 para. 31 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

32 In section 91A(1) (application to Community licence holders)—

(a) after "44(1)" insert " and (3A) ", and

(b) after "47(3)" insert " and (3A) ".

Commencement Information

I109 Sch. 2 para. 32 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)**

Child Support Act 1991 (c. 48)

33 In section 40B(9) of the Child Support Act 1991 (disqualification from driving: further provision), for "the driving" substitute " any driving ".

Commencement Information

I110 Sch. 2 para. 33 in force at 1.4.2009 by S.I. 2008/3164, **art. 4(b)** (with arts. 4-9)

VALID FROM 08/06/2015

SCHEDULE 3

Section 10

ENDORSEMENT: ALL DRIVERS

. . . . . .

SCHEDULE 4

Section 11

PROHIBITION ON DRIVING: IMMOBILISATION, REMOVAL AND DISPOSAL OF VEHICLES

Cases to which regulations may apply

1 The Secretary of State may make regulations with respect to any case where, on or after such date as may be prescribed, the driving of a vehicle has been prohibited under—

(a) section 99A(1) of the Transport Act 1968 (c. 73) (powers to prohibit driving of vehicles in connection with contravention of provisions about drivers' hours),

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(b) section 1 of the Road Traffic (Foreign Vehicles) Act 1972 (c. 27) (powers to prohibit driving of foreign goods vehicles and foreign public service vehicles),

(c) section 69 or 70 of the Road Traffic Act 1988 (c. 52) (powers to prohibit driving of unfit or overloaded vehicles), or

(d) section 90D of the Road Traffic Offenders Act 1988 (c. 53) (power to prohibit driving of vehicle on failure to make payment in compliance with financial penalty deposit requirement).

Commencement Information

I113 Sch. 4 para. 1 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

Immobilisation

2 (1) The regulations may provide that an authorised person or a person acting under his direction may—

(a) fix an immobilisation device to the vehicle, and

(b) move the vehicle, or direct it to be moved, for the purpose of enabling an immobilisation device to be fitted it.

(2) The regulations may provide that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations the person fixing the device must also fix to the vehicle a notice—

(a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device,

(b) specifying the steps to be taken to secure its release, and

(c) giving such other information as may be prescribed.

(3) The regulations may provide that a vehicle to which an immobilisation device has been fixed in accordance with the regulations—

(a) may only be released from the device by or under the direction of an authorised person, but

(b) subject to that, must be released from the device if the first and second requirements specified below are met.

(4) The first requirement is that such charge in respect of the release as may be prescribed is paid in any manner specified in the immobilisation notice.

(5) The second requirement is that, in accordance with instructions specified in the immobilisation notice, there is produced such evidence as may be prescribed establishing that the prohibition has been removed.

(6) The regulations may provide that they do not apply in relation to a vehicle if—

(a) a current disabled person's badge is displayed on the vehicle, or

(b) such other conditions as may be prescribed are fulfilled,

and “disabled person's badge” means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 21 of the Chronically Sick and Disabled Persons Act 1970 (c. 44).

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(7) The regulations may provide that an immobilisation notice is not to be removed or interfered with except by or on the authority of a person falling within a prescribed description.

Commencement Information
I114 Sch. 4 para. 2 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

Offences connected with immobilisation etc.

3 (1) The regulations may provide that a person who fails to comply within a reasonable time with a direction under provision made under paragraph 2(1)(b) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) The regulations may provide that a person contravening provision made under paragraph 2(7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) The regulations may provide that a person who, without being authorised to do so in accordance with provision made under paragraph 2, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) The regulations may provide that where they would otherwise have applied in relation to a vehicle but for provision made under paragraph 2(6)(a) and the vehicle was not, at the time at which they would otherwise have applied, being used—

(a) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970 (c. 44), and

(b) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984 (c. 27) (use where a disabled person's concession would be available),

the person in charge of the vehicle at that time is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) The regulations may provide that where—

(a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations,

(b) the declaration is that the prohibition has been removed, and

(c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

(6) The regulations may provide that a person guilty of an offence for which provision is made under sub-paragraph (5) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

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Commencement Information
I115 Sch. 4 para. 3 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

Removal and disposal of vehicles

4 (1) The regulations may provide that where such conditions as may be prescribed are fulfilled an authorised person, or a person acting under his direction, may remove the vehicle or direct it to be removed.

(2) The regulations may provide that where such conditions as may be prescribed are fulfilled an authorised person, or a person acting under his direction, may deliver the vehicle, or direct it to be delivered, into the custody of a person—

(a) who is identified in accordance with prescribed rules, and

(b) who agrees to accept delivery in accordance with arrangements agreed between that person and the Secretary of State,

and the arrangements may include provision as to the payment of a sum to the person into whose custody the vehicle is delivered.

(3) The regulations may make provision for such persons as may be prescribed to be informed that a vehicle has been removed and delivered into a person's custody and may, in particular, include provision requiring—

(a) the publication by an authorised person of such notices as may be prescribed, and

(b) the giving of notice by an authorised person to such persons as may be prescribed.

(4) The regulations may provide that the person into whose custody the vehicle is delivered may dispose of it, and may in particular make provision as to—

(a) the time at which the vehicle may be disposed of, and

(b) the manner in which it may be disposed of.

(5) The regulations may make provision allowing a person to take possession of the vehicle if—

(a) he claims it before it is disposed of, and

(b) any prescribed conditions are fulfilled.

(6) The regulations may provide for a sum of an amount arrived at under prescribed rules to be paid to a person if—

(a) he claims after the vehicle's disposal to be or to have been its owner or to have been the person in charge of the vehicle when it was removed,

(b) the claim is made within a prescribed time of the disposal, and

(c) any other prescribed conditions are fulfilled.

(7) The regulations may provide that (whether or not a claim is made under provision made under sub-paragraph (5) or (6))—

(a) the Secretary of State, or

(b) a person into whose custody the vehicle is delivered under the regulations,

may recover from the vehicle's owner or the person in charge of the vehicle such charges as may be prescribed in respect of all or any of its release, removal, custody and disposal.

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(8) In sub-paragraph (7) "person in charge" and "owner", in relation to a vehicle, means the person who was in charge of the vehicle or was the vehicle's owner when it was removed.

(9) The conditions prescribed under sub-paragraph (5) may include conditions as to—
- (a) satisfying the person with custody that the claimant is the vehicle's owner or was the person in charge of the vehicle when it was removed,
- (b) the payment of prescribed charges in respect of the vehicle's release, removal and custody, and
- (c) the production of such evidence as may be prescribed establishing that the prohibition has been removed.

(10) The regulations may in particular include provision for purposes corresponding to those of sections 101 and 102 of the Road Traffic Regulation Act 1984 (c. 27) (disposal and charges) subject to such additions, omissions or other modifications as the Secretary of State thinks fit.

Commencement Information
I116 Sch. 4 para. 4 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

Offences as to securing possession of vehicles

5 (1) The regulations may provide that a person who fails to comply within a reasonable time with a direction under provision made under sub-paragraph (1) or (2) of paragraph 4 is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) The regulations may provide that where—
- (a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of a person in accordance with provision made under paragraph 4,
- (b) the declaration is that the prohibition has been removed, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

(3) The regulations may provide that a person guilty of an offence for which provision is made under sub-paragraph (2) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

Commencement Information
I117 Sch. 4 para. 5 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

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Disputes

6 The regulations may make provision about the proceedings to be followed where a dispute occurs as a result of the regulations, and may in particular make provision—

(a) for an application to be made to a magistrates' court or (in Scotland) to the sheriff, or

(b) for a court to order a sum to be paid by the Secretary of State.

Commencement Information
I118 Sch. 4 para. 6 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

Authorised persons

7 As regards anything falling to be done under the regulations (such as receiving payment of a charge or other sum) the regulations may provide that it may be done—

(a) by an authorised person, or

(b) by an authorised person or a person acting under his direction.

Commencement Information
I119 Sch. 4 para. 7 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

Application of Road Traffic Offenders Act 1988 (c. 53)

8 The regulations may make provision for the application of any or all of sections 1, 6, 11 and 12(1) of the Road Traffic Offenders Act 1988 to an offence for which provision is made by the regulations.

Commencement Information
I120 Sch. 4 para. 8 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

Interpretation

9 References in this Schedule to a vehicle include references to any trailer drawn by the vehicle.

Commencement Information
I121 Sch. 4 para. 9 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

10 (1) This paragraph makes provision about the meaning of “authorised person” for the purposes of this Schedule.

(2) Where the driving of the vehicle has been prohibited under section 99A(1) of the Transport Act 1968 (c. 73), section 1(2) of the Road Traffic (Foreign Vehicles) Act 1972 (c. 27) or section 69 of the Road Traffic Act 1988 (c. 52), “authorised person” means—

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Road Safety Act 2006 is up to date with all changes known to be in force on or before 03 July 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)*

(a) an examiner appointed by the Secretary of State under section 66A of the Road Traffic Act 1988, or

(b) a constable authorised by or on behalf of a chief officer of police to act for the purposes of the provision under which the driving of the vehicle has been prohibited.

(3) Where the driving of the vehicle has been prohibited under section 1(3) of the Road Traffic (Foreign Vehicles) Act 1972 (c. 27), "authorised person" means a person authorised to exercise the powers of section 78 of the Road Traffic Act 1988 (c. 52) with respect to the weighing of motor vehicles and trailers.

(4) Where the driving of the vehicle has been prohibited under section 70 of the Road Traffic Act 1988, "authorised person" means a person mentioned in sub-paragraph (2) or a person authorised with the consent of the Secretary of State to act for the purposes of subsection (1) of that section by—

(a) a highway authority other than the Secretary of State, or

(b) a local roads authority in Scotland.

(5) Where the driving of the vehicle has been prohibited under section 90D of the Road Traffic Offenders Act 1988 (c. 53), "authorised person" means—

(a) an examiner appointed by the Secretary of State under section 66A of the Road Traffic Act 1988, or

(b) a constable.

Commencement Information

I122 Sch. 4 para. 10 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

11 In this Schedule—

(a) references to an immobilisation device are to a device or appliance which is an immobilisation device for the purposes of section 104 of the Road Traffic Regulation Act 1984 (c. 27) (immobilisation of vehicles illegally parked), and

(b) references to an immobilisation notice are to a notice fixed to a vehicle in accordance with the regulations.

Commencement Information

I123 Sch. 4 para. 11 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

12 In this Schedule "prescribed" means prescribed by the regulations.

Commencement Information

I124 Sch. 4 para. 12 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

13 (1) The regulations may make provision as to the meaning for the purposes of the regulations of "owner" as regards a vehicle.

(2) In particular, the regulations may provide that for the purposes of the regulations the owner of a vehicle is taken to be the person in whose name it is then registered under the Vehicle Excise and Registration Act 1994 (c. 22).

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Road Safety Act 2006 is up to date with all changes known to be in force on or before 03 July 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)*

Commencement Information
I125 Sch. 4 para. 13 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

Supplementary provisions about regulations

14 (1) The power to make regulations under this Schedule is exercisable by statutory instrument.

(2) A statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information
I126 Sch. 4 para. 14 in force at 5.1.2009 by S.I. 2008/3164, **art. 2(b)**

SCHEDULE 5

Section 22

NEW SCHEDULE 2A TO THE ROAD TRAFFIC ACT 1988

Commencement Information
I127 Sch. 5 in force at 4.2.2011 by S.I. 2011/19, **art. 2(b)**

The Schedule inserted after Schedule 2 to the Road Traffic Act 1988 is as follows—

"SCHEDULE 2A

Section 144D

OFFENCE OF KEEPING VEHICLE WHICH DOES NOT MEET INSURANCE REQUIREMENTS: IMMOBILISATION, REMOVAL AND DISPOSAL OF VEHICLES

Immobilisation

1 (1) Regulations may make provision with respect to any case where an authorised person has reason to believe that, on or after such date as may be prescribed, an offence under section 144A of this Act is being committed as regards a vehicle which is stationary on a road or other public place.

(2) The regulations may provide that the authorised person or a person acting under his direction may—

(a) fix an immobilisation device to the vehicle while it remains in the place where it is stationary, or

(b) move it from that place to another place on the same or another road or public place and fix an immobilisation device to it in that other place.

(3) The regulations may provide that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations the person fixing the device must also fix to the vehicle a notice—

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(a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device,
(b) specifying the steps to be taken to secure its release, and
(c) giving such other information as may be prescribed.

(4) The regulations may provide that a vehicle to which an immobilisation device has been fixed in accordance with the regulations—
(a) may only be released from the device by or under the direction of an authorised person, but
(b) subject to that, must be released from the device if the first and second requirements specified below are met.

(5) The first requirement is that such charge in respect of the release as may be prescribed is paid in any manner specified in the immobilisation notice.

(6) The second requirement is that, in accordance with instructions specified in the immobilisation notice, there is produced such evidence as may be prescribed establishing—
(a) that any person who proposes to drive the vehicle away will not in doing so be guilty of an offence under section 143 of this Act, and
(b) that the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 is not guilty of an offence under section 144A of this Act as regards the vehicle.

(7) The regulations may provide that they do not apply in relation to a vehicle if—
(a) a current disabled person's badge is displayed on the vehicle, or
(b) such other conditions as may be prescribed are fulfilled,

and "disabled person's badge" means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 21 of the Chronically Sick and Disabled Persons Act 1970.

(8) The regulations may provide that an immobilisation notice is not to be removed or interfered with except by or on the authority of a person falling within a prescribed description.

Offences connected with immobilisation

2 (1) The regulations may provide that a person contravening provision made under paragraph 1(8) above is guilty of an offence.

(2) The regulations may provide that a person who, without being authorised to do so in accordance with provision made under paragraph 1 above, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations is guilty of an offence.

(3) The regulations may provide that where they would apply in relation to a vehicle but for provision made under paragraph 1(7)(a) above and the vehicle was not, at the time it was stationary, being used—
(a) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970, and
(b) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984 (use where a disabled person's concession would be available),

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the person in charge of the vehicle at that time is guilty of an offence.

(4) The regulations may provide that where—

(a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations,

(b) the declaration is that no offence under section 144A of this Act is or was being committed as regards the vehicle, and

(c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

Removal and disposal of vehicles

3 (1) The regulations may make provision with respect to any case where—

(a) an authorised person has reason to believe that an offence under section 144A of this Act is being committed as regards a vehicle which is stationary on a road or other public place, and such conditions as may be prescribed are fulfilled, or

(b) an authorised person has reason to believe that such an offence was being committed as regards a vehicle at a time when an immobilisation device which is fixed to the vehicle was fixed to it in accordance with the regulations, and such conditions as may be prescribed are fulfilled.

(2) The regulations may provide that the authorised person, or a person acting under his direction, may remove the vehicle and deliver it into the custody of a person—

(a) who is identified in accordance with prescribed rules, and

(b) who agrees to accept delivery in accordance with arrangements agreed between that person and the Secretary of State,

and the arrangements may include provision as to the payment of a sum to the person into whose custody the vehicle is delivered.

(3) The regulations may provide that the person into whose custody the vehicle is delivered may dispose of it, and may in particular make provision as to—

(a) the time at which the vehicle may be disposed of, and

(b) the manner in which it may be disposed of.

(4) The regulations may make provision allowing a person to take possession of the vehicle if—

(a) he claims it before it is disposed of, and

(b) any prescribed conditions are fulfilled.

(5) The regulations may provide for a sum of an amount arrived at under prescribed rules to be paid to a person if—

(a) he claims after the vehicle's disposal to be or to have been its owner,

(b) the claim is made within a prescribed time of the disposal, and

(c) any other prescribed conditions are fulfilled.

(6) The regulations may provide that—

(a) the Secretary of State, or

(b) a person into whose custody the vehicle is delivered under the regulations,

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may recover from the vehicle's owner (whether or not a claim is made under provision made under sub-paragraph (4) or (5) above) such charges as may be prescribed in respect of all or any of the following, namely its release, removal, custody and disposal; and "owner" means the person who was the owner when the vehicle was removed.

(7) The conditions prescribed under sub-paragraph (4) above may include conditions as to—

(a) satisfying the person with custody that the claimant is the vehicle's owner,

(b) the payment of prescribed charges in respect of the vehicle's release, removal and custody,

(c) the production of such evidence as may be prescribed establishing that in driving the vehicle away the claimant will not be guilty of an offence under section 143 of this Act, and

(d) the production of such evidence as may be prescribed establishing that the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 is not guilty of an offence under section 144A of this Act as regards the vehicle.

(8) The regulations may in particular include provision for purposes corresponding to those of sections 101 and 102 of the Road Traffic Regulation Act 1984 (disposal and charges) subject to such additions, omissions or other modifications as the Secretary of State thinks fit.

Offences as to securing possession of vehicles

4 The regulations may provide that where—

(a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of a person in accordance with provision made under paragraph 3 above,

(b) the declaration is that no offence under section 144A of this Act is or was being committed as regards the vehicle, and

(c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

Disputes

5 The regulations may make provision about the proceedings to be followed where a dispute occurs as a result of the regulations, and may in particular make provision—

(a) for an application to be made to a magistrates' court or (in Scotland) to the sheriff, or

(b) for a court to order a sum to be paid by the Secretary of State.

Authorised persons

6 As regards anything falling to be done under the regulations (such as receiving payment of a charge or other sum) the regulations may provide that it may be done—

(a) by an authorised person, or

(b) by an authorised person or a person acting under his direction.

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Application of Road Traffic Offenders Act 1988

7 The regulations may make provision for the application of any or all of sections 1, 6, 11 and 12(1) of the Road Traffic Offenders Act 1988 to an offence for which provision is made by the regulations.

Interpretation

8 (1) The regulations may make provision as to the meaning for the purposes of the regulations of "owner" as regards a vehicle.

(2) In particular, the regulations may provide that for the purposes of the regulations the owner of a vehicle is taken to be the person in whose name it is then registered under the Vehicle Excise and Registration Act 1994.

9 (1) The regulations may make provision as to the meaning in the regulations of "authorised person".

(2) In particular, the regulations may provide that—

(a) references to an authorised person are to a person authorised by the Secretary of State for the purposes of the regulations,

(b) an authorised person may be a local authority or an employee of a local authority or a member of a police force or some other person, and

(c) different persons may be authorised for the purposes of different provisions of the regulations.

10 In this Schedule—

(a) references to an immobilisation device are to a device or appliance which is an immobilisation device for the purposes of section 104 of the Road Traffic Regulation Act 1984 (immobilisation of vehicles illegally parked), and

(b) references to an immobilisation notice are to a notice fixed to a vehicle in accordance with the regulations."

VALID FROM 21/05/2012

SCHEDULE 6 Section 42

DRIVING INSTRUCTION

Road Traffic Act 1988 (c. 52)

1 The Road Traffic Act 1988 is amended as follows.

PROSPECTIVE

2 For section 123 (instruction in the driving of motor cars to be given only by registered or licensed person) and the heading before it substitute—

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"Instructors and instruction businesses to be registered

123 Requirement of registration

(1) A person—

(a) must not give paid driving instruction of any prescribed description unless he is registered in respect of the giving of that description of driving instruction, and

(b) must not carry on business in the provision of paid driving instruction of any prescribed description unless he is registered in respect of the carrying on of business in the provision of that description of driving instruction.

(2) A person—

(a) must not give paid driving instruction of any prescribed description unless prescribed requirements as to the displaying of evidence that he is registered in respect of the giving of that description of driving instruction are complied with, and

(b) must not carry on business in the provision of paid driving instruction of any prescribed description unless prescribed requirements as to the displaying of evidence that he is registered in respect of the carrying on of business in the provision of that description of driving instruction are complied with.

(3) In this Part of this Act "driving instruction" means instruction in relation to the driving of a motor vehicle.

(4) Regulations under this Part which prescribe a description of driving instruction may do so by reference to—

(a) the class of motor vehicle to which the instruction relates,

(b) the description of persons to whom the instruction is given or provided, or

(c) the nature of the instruction or where or how it is given or provided.

(5) For the purposes of this Part of this Act instruction is paid instruction if payment of money or money's worth is, or is to be, made for the instruction by or in respect of the person to whom the instruction is given or provided.

(6) Regulations may prescribe circumstances in which instruction provided free of charge shall be deemed to be given for payment of money by or in respect of the person to whom the instruction is given or provided.

(7) For the purposes of this Part of this Act a person is "registered" if his name is in the register together with—

(a) an indication as to whether he is registered in respect of the giving of driving instruction or the carrying on of business in the provision of driving instruction (or both),

(b) an indication as to the description of driving instruction in respect of which he is registered, and

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(c) such other particulars as may be prescribed,

and "registration" shall be construed accordingly.

(8) In this Part of this Act "the register" means the register established for the purposes of this Part of this Act under section 125 of this Act.

123A Paid driving instruction: offences

(1) If driving instruction is given in contravention of section 123(1)(a) of this Act—

(a) the person by whom it is given,

(b) if that person is employed by another to give that instruction, that other (as well as that person), and

(c) if that person is a franchisee under a driving instruction franchise, the franchisor under the driving instruction franchise (as well as that person),

is guilty of an offence.

(2) If a person contravenes section 123(1)(b) of this Act he is guilty of an offence.

(3) In proceedings against a person for an offence under subsection (1) or (2) above it shall be a defence for him to prove that he did not know, and had no reasonable cause to believe, that—

(a) in a case within paragraph (a) of subsection (1) above, or within subsection (2) above, he,

(b) in a case within paragraph (b) of subsection (1) above, the person employed by him, or

(c) in a case within paragraph (c) of that subsection, the person who was the franchisee under the driving instruction franchise,

was not at the material time registered in respect of the description of driving instruction in question.

(4) If a person contravenes section 123(2) of this Act he is guilty of an offence."

PROSPECTIVE

3 For section 124 (exemption of police instructors) substitute—

"**124 Exemption from prohibitions imposed by section 123**

(1) Regulations may prescribe circumstances in which section 123 of this Act shall not apply in relation to driving instruction, or driving instruction of a prescribed description.

(2) The regulations may, in particular, make provision for section 123(1)(a) and (2)(a) of this Act not to apply in prescribed circumstances for the purpose of enabling persons to acquire experience in giving driving instruction."

Status: *Point in time view as at 16/05/2011. This version of this Act contains provisions that are not valid for this point in time.*
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PROSPECTIVE

4 For section 125 (register of approved instructors) substitute—

"**125 Register**

(1) Regulations shall make provision for the establishment and maintenance of a register for the purposes of this Part of this Act.

(2) An application to be registered in respect of any description of driving instruction must be made to the officer of the Secretary of State (in this Part of this Act referred to as "the Registrar") by whom the register is, on behalf of the Secretary of State, compiled and maintained.

(3) An application under subsection (2) above shall be made in such manner, and shall be accompanied by such particulars, as the Secretary of State may determine.

(4) The Registrar must, on making a decision on an application under subsection (2) above, give notice in writing of the decision to the applicant which, in the case of a decision to refuse the application, must state the grounds for the refusal.

(5) Regulations may make provision authorising the Secretary of State to make available information about persons registered under this section.

(6) Subsections (2) to (5) above and section 125ZA of this Act do not apply in relation to an application by a person to be registered, or to a person's registration, as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle in the motor vehicle."

PROSPECTIVE

5 After that section insert—

"**125ZA Conditions of registration**

(1) Where a person duly applies to be registered in respect of a description of driving instruction, the Registrar must register him in respect of that description of driving instruction if he satisfies the Registrar that the conditions prescribed under this subsection are fulfilled.

(2) In the case of applications by persons to be registered in relation to the giving of a description of driving instruction, those conditions may (in particular) include—

(a) conditions requiring the persons to have passed such examinations of ability and fitness to give driving instruction of that description as may be prescribed under section 132 of this Act,

(b) conditions requiring the persons to hold, or to have held for a prescribed period, such licences to drive motor vehicles of a prescribed description as may be prescribed, and

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(c) conditions requiring the persons not to have been disqualified during a prescribed period under prescribed provisions for holding or obtaining a licence to drive motor vehicles.

(3) A person may be registered in respect of a description of driving instruction subject to fulfilling the conditions prescribed under this subsection for so long as he continues to be so registered.

(4) In the case of the registration of persons in relation to the giving of a description of driving instruction, those conditions may (in particular) include—

(a) conditions requiring the persons, if at any time required to do so by the Registrar, to submit themselves for such examinations of continued ability and fitness to give driving instruction of that description as may be prescribed under section 132 of this Act,

(b) conditions requiring the persons to have passed those examinations,

(c) conditions within subsection (2)(b) and (c) above, and

(d) conditions requiring the persons to follow guidance issued by the Registrar as to the giving of driving instruction of that description.

(5) In the case of the registration of persons in relation to the carrying on of business in the provision of a description of driving instruction, those conditions may (in particular) include—

(a) conditions requiring the persons to secure that motor vehicles and premises used by them in the carrying on of the business meet prescribed standards throughout the period of registration,

(b) conditions requiring the persons, if at any time required to do so by the Registrar, to allow those motor vehicles and premises to be inspected, and

(c) conditions requiring the persons to follow guidance issued by the Registrar as to the carrying on of business in the provision of driving instruction of that description.

(6) The conditions prescribed under subsection (1) or (3) above may (in particular) include a condition that persons are fit and proper persons to be, or to continue to be, registered.

(7) Regulations may include provision for persons of a prescribed description to be exempt from any condition, to such extent as is prescribed, in prescribed circumstances."

PROSPECTIVE

[F10]6 . . . . . .

Textual Amendments

F10 Sch. 6 para. 6 omitted (26.3.2015 for specified purposes) by virtue of Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 2 para. 33**

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PROSPECTIVE

F11 7 . . . . . .

Textual Amendments

F11 Sch. 6 para. 7 omitted (26.3.2015 for specified purposes) by virtue of Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 2 para. 33**

PROSPECTIVE

8 For section 126 (duration of registration) substitute—

"**126 Duration of registration**

(1) Unless previously terminated under the following provisions of this Part of this Act, a person's registration in respect of any description of driving instruction shall (subject to subsection (3) below) be terminated at the end of the period of four years beginning with the day specified in subsection (2) below.

(2) That day is—

(a) the first day of the month next after that in which the person became registered in respect of that description of driving instruction, or

(b) where his registration in respect of that description of driving instruction has been extended under section 127 of this Act, the day on which the last further period for which the registration was last extended began.

(3) If an application for the extension of a person's registration in respect of any description of driving instruction is made under section 127 of this Act, the registration is not terminated under subsection (1) above.

(4) Where a person whose registration in respect of any description of driving instruction has been terminated under subsection (1) above applies under section 125 of this Act to be registered again in respect of that description of driving instruction, he shall be required again to fulfil such of the conditions prescribed under section 125ZA(1) of this Act as may be prescribed.

(5) But if the person was a registered disabled instructor he shall instead be required again to fulfil such of the conditions prescribed under section 125A(5) of this Act as may be prescribed."

PROSPECTIVE

9 (1) Section 127 (extension of duration of registration) is amended as follows.

(2) For subsections (1) to (4) substitute—

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"(1) A person may, no later than such time before his registration in respect of any description of driving instruction is terminated under section 126(1) of this Act as is prescribed, apply to the Registrar for the extension of that registration for a further period of four years.

(2) An application under subsection (1) above shall be made in such manner, and shall be accompanied by such particulars, as the Secretary of State may determine.

(3) On an application under subsection (1) above, the applicant shall be entitled to have the registration extended for the further period of four years if he satisfies the Registrar that the prescribed requirements are fulfilled.

(4) The continued registration of a person by virtue of an extension under this section may be made subject to—

(a) in the case of a registered disabled instructor, the conditions prescribed under section 125A(7) of this Act, and

(b) in any other case, the conditions prescribed under section 125ZA(3) of this Act."

(3) In subsection (7), after "application" insert " under subsection (1) above ".

(4) In subsection (7A), for "A decision to refuse" substitute " The termination of a person's registration on a decision to refuse such ".

(5) In subsection (8), for "decision shall" substitute " termination of registration shall ".

PROSPECTIVE

10 For section 128 (removal of names from register) substitute—

"**128 Termination of registration by Registrar**

(1) The Registrar may terminate a person's registration in respect of any description of driving instruction if he is satisfied that any relevant prescribed condition has not been complied with in the case of the person—

(a) in a case where his registration has not been extended under section 127 of this Act, at any time since he became registered, or

(b) in a case where his registration has been so extended, at any time since it was last extended.

(2) For the purposes of subsection (1) above "relevant prescribed condition" means—

(a) in the case of a registered disabled instructor, a condition prescribed under section 125A(7) of this Act, and

(b) in any other case, a condition prescribed under section 125ZA(3) of this Act.

(3) The Registrar may also terminate a person's registration in respect of a description of driving instruction if the person's registration, or (if

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the person's registration has been extended) the last extension of his registration, was made by mistake or procured by fraud.

(4) Before terminating a person's registration in respect of any description of driving instruction, the Registrar must give him written notice stating that he is considering terminating the registration and giving particulars of the grounds on which he is considering it.

(5) Where the Registrar gives notice to a person under subsection (4) above—

(a) that person may, within the period of 28 days beginning with the day on which the notice is given, make representations with respect to the proposed termination,

(b) the Registrar must not decide to terminate the registration until after the end of that period, and

(c) before deciding whether or not to terminate the registration, the Registrar must take into consideration any such representations made by him within that period.

(6) The Registrar must, on making a decision to terminate a person's registration in respect of any description of driving instruction, give notice in writing of the decision to the person.

(7) A decision to terminate a person's registration in respect of any description of driving instruction shall take effect at the end of the period of 14 days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under the following provisions of this Part of this Act is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).

(8) But the Registrar may, when giving notice of his decision to terminate a person's registration in respect of any description of driving instruction, direct that the decision shall instead take effect—

(a) where no appeal under the following provisions of this Part of this Act is brought against the decision within the time limited for the appeal, at the end of that time,

(b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal, or

(c) where such an appeal is brought and not withdrawn or struck out for want of prosecution, if and when the appeal is dismissed, and not otherwise."

PROSPECTIVE

11 After that section insert—

"**128A Power to give direction as to further applications**

(1) This section applies when the Registrar decides—

(a) to refuse to register a person,

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(b) to refuse an application for the extension of a person's registration, or

(c) to terminate a person's registration,

in respect of any description of driving instruction.

(2) The Registrar may direct that any application by that person to be registered in respect of that description of driving instruction shall not be entertained before the end of such period, not exceeding four years beginning with the day on which the decision takes effect, as may be specified in the direction.

(3) Notice of any such direction must be included in the notice of the decision in connection with which it is given."

PROSPECTIVE

12 Omit sections 129 and 130 (licences for giving instruction so as to obtain practical experience) and the heading before them.

PROSPECTIVE

13 (1) Section 131 (appeals) is amended as follows.

[[F12](1A) Before subsection (1), insert—

"(A1) A relevant person who is aggrieved by a failure of the Registrar to notify the person of a decision in relation to the person's application for registration before the end of the period of four months beginning with the day after the day on which the complete application was submitted, may appeal to the First-tier Tribunal.

(B1) On an appeal under subsection (A1), the First-tier Tribunal may make such order requiring the Registrar to notify the relevant person of a decision in relation to the application as it thinks fit.

(C1) In subsections (A1) and (B1), "relevant person" means a person entitled to give paid instruction in the driving of a motor car by virtue of Part 2 of the Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023."**]**

(2) In subsection (1), for paragraphs (a) to (c) substitute—

"(a) to refuse an application for his registration or for the extension of his registration,

(b) to terminate his registration,

(c) to give a direction under section 128A of this Act,".

(3) Omit subsection (2).

[[F13](3A) In subsection (3), for "the appeal" substitute "an appeal under subsection (1)."**]**

(4) In subsection (3), for paragraph (b) and the word "or" before it substitute—

"(b) for the continuation or termination of the registration, or

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(c) for the revocation or confirmation of the direction or the alteration of the period specified in the direction,".

(5) In subsection (4), for the words from the beginning to the end of paragraph (b) substitute " An order for refusal or termination under subsection (3)(a) or (b) above may direct that an application by the appellant to be registered ".

(6) In subsection (4B), for ", 128(7) or 130(6)" substitute " or 128(8) ".

(7) In subsection (4D)—

(a) for "retention of a name in the register, to remove a name from the register or to revoke a licence granted under section 129 of this Act" substitute " extension of a person's registration or to terminate a person's registration ", and

(b) for ", 128(7) or 130(6)" substitute " or 128(8) ".

(8) In subsection (4F), for "instruction in the driving of a motor car" substitute " driving instruction ".

Textual Amendments

F12 Sch. 6 para. 13(1A) inserted (1.12.2023) by The Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023 (S.I. 2023/1286), reg. 1, **Sch. 3 para. 92(2)(a)(i)**

F13 Sch. 6 para. 13(3A) inserted (1.12.2023) by The Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023 (S.I. 2023/1286), reg. 1, **Sch. 3 para. 92(2)(a)(ii)**

PROSPECTIVE

14 For sections 132 and 133 and the heading before them substitute—

"Examinations and training

132 Examinations

(1) Regulations may make provision with respect to—

(a) the nature of examinations of the ability and fitness (or continued ability and fitness) to give driving instruction (which may consist of practical tests and other tests and means of assessment) and the administrative arrangements for submitting for such examinations,

(b) the qualification, selection and appointment of persons by whom they may be conducted, conditions which must be satisfied during the currency of an appointment, the charging of reasonable fees in respect of applications for appointment or appointments or in connection with any examination or assessment which may be required before appointment or during the currency of any appointment and the revocation of any appointment,

(c) evidence of the results of such examinations, and

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(d) the making available of information about the results of such examinations,

and generally with respect to such examinations.

(2) In particular, the regulations may make provision—

(a) for requiring a person submitting himself for any part of an examination which consists of practical tests, to provide a safe and suitable vehicle for the purposes of the practical tests and for requiring that, if the vehicle is a vehicle of a prescribed description, the vehicle has been certified in the prescribed manner after a prescribed inspection as satisfying such requirements as may be prescribed,

(b) for the charging (whether on the making by a person of arrangements to submit himself for any part of an examination or otherwise) of reasonable fees for or in connection with the examination, or any part of it, and any inspection and certification of a vehicle required by regulations under paragraph (a) above in relation to any part of the examination,

(c) for requiring a person who desires to submit himself, or is required to submit himself, for an examination, or any part of it, to supply the Registrar with such particulars as the Secretary of State may determine, and

(d) for ensuring that a person submitting himself for an examination, or any part of it, and failing to pass it shall not be eligible to submit himself for another examination, or any part of it, by the same or any other person before the end of a prescribed period, except under an order made by a court or sheriff under the power conferred by section 133 of this Act.

133 Review of examinations etc.

(1) On the application of a person who has undergone a relevant instructor examination, or a part of a relevant instructor examination—

(a) a magistrates' court, or

(b) in Scotland, the sheriff within whose jurisdiction he resides,

may determine whether the examination, or the part of the examination, was properly conducted.

(2) In this Part of this Act “relevant instructor examination” means—

(a) an examination of ability and fitness referred to in section 125ZA(2)(a) or 125A(6)(a) of this Act,

(b) an examination of continued ability and fitness referred to in section 125ZA(4)(a) or 125A(7A)(a) of this Act, or

(c) an emergency control assessment under section 133A of this Act.

(3) If it appears to the court or sheriff that it was not properly conducted, the court or sheriff may—

(a) (except in the case of an emergency control assessment) order that the applicant shall be eligible to submit himself for another

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examination before the end of the period prescribed under section 132(2)(d) of this Act, and

(b) (in any case) order that any fee payable by the applicant in respect of the examination shall not be paid or, if it has been paid, shall be repaid.

(4) No appeal shall lie under section 131 of this Act in respect of any matter in respect of which an application may be made to a magistrates' court or a sheriff under subsection (1) above.

133ZA Training

(1) Regulations may provide that a person—

(a) shall not be permitted to take any part of a relevant instructor examination,

(b) shall not be registered, or

(c) shall not have his registration extended,

unless he has successfully completed training in accordance with the regulations.

(2) Regulations may make provision in relation to training—

(a) by means of courses provided in accordance with the regulations,

(b) by means of study conducted in accordance with the regulations, and

(c) by any other prescribed means.

(3) Regulations under this section may include provision exempting persons from any requirement imposed by virtue of subsection (1) above; and regulations including such provision may (in particular)—

(a) limit an exemption to persons in prescribed circumstances,

(b) attach conditions to an exemption,

(c) regulate applications for an exemption, and

(d) include provision for the evidencing by a person of his being within an exemption.

(4) Regulations under this section may provide that training is not to be taken into account for the purposes of the regulations if it was completed before such time as is prescribed.

(5) Regulations under this section may, in particular, include—

(a) provision about the nature of training,

(b) provision for the approval by the Secretary of State of persons providing training or giving instruction as part of training and the withdrawal of approval (including provision for appeals to the Transport Tribunal against refusal and withdrawal of approval) and provision for exemptions from any requirement of approval,

(c) provision for the training or assessment, or the supervision of training or assessment, of persons providing training or giving instruction as part of training,

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(d) provision setting the maximum amount of any charges payable by persons undergoing training,

(e) provision for the evidencing of the successful completion of training, and

(f) provision authorising the Secretary of State to make available information about persons providing training or giving instruction as part of training.

(6) Regulations under this section may include provision for the charging of reasonable fees in respect of the exercise of any function conferred or imposed on the Secretary of State by the regulations.”

PROSPECTIVE

15 In section 133A (assessment of disabled person's ability to control a motor car in an emergency), for “car” in each place (including in the heading) substitute “ vehicle ”.

PROSPECTIVE

16 (1) Section 133B (further assessments) is amended as follows.

(2) In subsection (1), for “125B(6)(a)” substitute “ 125A(7A)(c) ”.

(3) In subsection (2), for “whose name is not on the register” substitute “ who is not registered ”.

(4) In subsection (4)(b), for “car” substitute “ vehicle ”.

PROSPECTIVE

17 (1) Section 133C (duty to disclose further disability) is amended as follows.

(2) Omit subsection (1).

(3) In subsection (2), for “person to whom this section applies” substitute “ registered disabled instructor ”.

PROSPECTIVE

18 (1) Section 133D (offences relating to giving by disabled person of paid driving instruction) is amended as follows.

(2) Omit subsection (1).

(3) For “car” in each place substitute “ vehicle ”.

(4) In subsections (2) and (3), for “person to whom this section applies” substitute “ registered disabled instructor ”.

(5) For subsection (4) substitute—

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"(4) Where a registered disabled instructor gives instruction in contravention of this section—

(a) the instructor,

(b) if the instructor is employed by another person to give that instruction, that other person (as well as the instructor), and

(c) if the instructor is a franchisee under a driving instruction franchise, the franchisor (as well as the instructor),

is guilty of an offence."

PROSPECTIVE

19 For section 134 (power to alter conditions for entry or retention in, and removal from, register etc.) substitute—

"**134 Power to alter registration period**

(1) Regulations may alter—

(a) the period at the end of which a person's registration is terminated (unless extended or further extended),

(b) the period for which a person's registration may be extended or further extended, and

(c) the period before the end of which it may be directed that any application by a person to be registered shall not be entertained.

(2) Regulations under this section may contain amendments of this Part of this Act."

PROSPECTIVE

20 For section 135 substitute—

"**135 Evidence of registration**

(1) Regulations may prescribe—

(a) certificates or other items that may be issued to registered persons to be displayed as evidence of their registration, and

(b) a title or other description which may be used as such evidence.

(2) If at any time a person who is not registered—

(a) displays a certificate or other item prescribed under subsection (1)(a) above,

(b) uses a title or other description prescribed under subsection (1)(b) above, or

(c) uses a title or other description implying that he is registered,

he is guilty of a offence unless he proves that he did not know, and did not have reasonable cause to believe, that he was not registered at that time.

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(3) If a person carrying on business in the provision of driving instruction at any time—

(a) uses a title or other description prescribed under subsection (1)(b) above in relation to any relevant person who is not appropriately registered, or

(b) issues any advertisement or invitation calculated to mislead with respect to the extent to which relevant persons are appropriately registered,

he is guilty of an offence unless he proves that he did not know, and did not have reasonable cause to believe, that the relevant person was, or relevant persons were, not appropriately registered at that time.

(4) For the purposes of subsection (3) above—

(a) a relevant person is a person who is employed by the person carrying on business to give driving instruction, or is a franchisee giving driving instruction under a driving instruction franchise under which that person is the franchisor, and

(b) a relevant person is appropriately registered if he is registered in respect of the giving of the description of driving instruction which he is employed to give or which is given by him under the driving instruction franchise.”

PROSPECTIVE

21 In section 136 (surrender of certificates)—

(a) for paragraphs (a) and (b) substitute “ the registration of a person to whom a certificate or other item prescribed under section 135(1)(a) of this Act has been issued is terminated, ”,

(b) for “licence, as the case may be,” substitute “ other item ”, and

(c) in the heading for **“and licences”** substitute “ etc. ”.

PROSPECTIVE

22 (1) Section 137 (production of certificates to constables and authorised persons) is amended as follows.

(2) In subsection (1)—

(a) after “a certificate” insert “ or other item ”,

(b) omit “, or to whom a licence under this Part of this Act is granted,”, and

(c) for “or licence” substitute “ or other item ”.

(3) In subsection (2), for the words before “constable” substitute “Where—

(a) a person's registration is terminated, and

(b) he fails to satisfy an obligation imposed on him by section 136 of this Act,

a ”.

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(4) In that subsection, for "issued to him or the licence" substitute " or other item issued to him ".

(5) In subsection (3), for "document" substitute " certificate or other item ".

(6) In subsection (4), for "document", in each place, substitute " certificate or other item ".

(7) In the heading for **"and licences"** substitute " etc. ".

PROSPECTIVE

23 (1) Section 140 (receipts) is to be renumbered as subsection (3) of that section.

(2) Before that subsection insert—

"(1) Regulations may make provision for the payment of such fees (if any) as may be prescribed in connection with registration or extension of registration.

[[F14](1A) The power to make regulations under subsection (1) is, in the case of fees payable by persons entitled to give paid instruction in the driving of a motor car by virtue of Part 2 of the Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023, subject to regulation 13 of those Regulations.**]**

(2) Regulations may make provision for the repayment (in whole or in part) of any fee payable by virtue of any provision of this Part of this Act in such circumstances as may be prescribed."

(3) For the heading substitute " Fees ".

Textual Amendments

F14 Words in Sch. 6 para. 23(2) inserted (1.12.2023) by The Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023 (S.I. 2023/1286), reg. 1, **Sch. 3 para. 92(2)(b)**

24 (1) Section 141 (regulations) is to be renumbered as subsection (1) of that section.

(2) In that subsection, after "by regulations" insert " and for prescribing anything which may be prescribed under this Part of this Act ".

(3) After that subsection insert—

"(2) Regulations under this section—

(a) may be expressed to apply generally or only in particular circumstances,

(b) may make different provision in relation to different cases or other circumstances or otherwise for different purposes, and

(c) may make incidental, supplementary, consequential or transitional provision or savings."

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PROSPECTIVE

25 For section 141A (meaning of "motor car") substitute—

"**141A Interpretation of Part 5**

(1) For the purposes of this Part of this Act persons may carry on business in the provision of driving instruction in any way, including in particular—
  (a) by giving instruction themselves,
  (b) by arranging for the giving of driving instruction by their employees, or
  (c) by arranging for the giving of driving instruction by persons who are franchisees under driving instruction franchises under which they are the franchisor.

(2) In this Part of this Act "driving instruction franchise" means an agreement under which one party (the "franchisor") grants to another party (a "franchisee") rights consisting of or including the right to use a particular trading name, style or design in the carrying on of business in the giving of driving instruction.

(3) In this Part of this Act references to "the franchisor" and "a franchisee", in relation to a driving instruction franchise, shall be construed accordingly.

(4) In this Part of this Act "current", in relation to a licence or certificate, means one which has not expired and has not been cancelled, revoked or suspended.

(5) In this Part of this Act—
  (a) "Community licence" and "counterpart", in relation to a Community licence, and
  (b) "provisional licence",

have the same meanings as in Part 3 of this Act."

PROSPECTIVE

26 For section 142 substitute—

"**142 Index to Part 5**

The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part of this Act listed in the right-hand column in relation to those expressions.

PROSPECTIVE

27 In section 173(2) (forgery of documents etc.), for paragraph (g) substitute—

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"(g) any document evidencing the passing of an examination (or part of an examination) required by regulations under section 132 of this Act or the successful completion of training provided in accordance with regulations under section 133ZA of this Act,

(ga) any certificate under section 133A of this Act,

(gb) any certificate or other item prescribed under section 135(1)(a) of this Act,".

PROSPECTIVE

28 In section 174(1) (false statements), after paragraph (d) insert—

"(da) of obtaining a document evidencing the passing of an examination (or part of an examination) required by regulations under section 132 of this Act or the successful completion of training provided in accordance with regulations under section 133ZA of this Act, or".

PROSPECTIVE

29 In section 183 (application to Crown), after subsection (6) insert—

"(6A) The Secretary of State may by regulations provide that Part 5 of this Act is to apply in relation to persons in the public service of the Crown but subject to any prescribed omissions, additions or other modifications."

PROSPECTIVE

30 In section 195(2) (duty to consult before making regulations under any provision other than section 8(3) and Part 5), omit "or Part 5".

PROSPECTIVE

Road Traffic Offenders Act 1988 (c. 53)

31 The Road Traffic Offenders Act 1988 is amended as follows.

32 (1) Section 18 (evidence by certificate as to registration of driving instructors and licences to give instruction) is amended as follows.

(2) In subsection (1), for paragraphs (a) to (d) substitute—

"(a) a person was, or was not, registered,

(b) a person became registered or a person's registration was terminated, or

(c) a person was, or was not, exempt from the prohibitions imposed by section 123 of the Road Traffic Act 1988 (requirement of registration) by virtue of provision made by regulations under section 124 of that Act,".

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(3) In subsection (3), for the words from " "current" to " "register"" substitute " " Registrar ", " registered " and " registration "".

(4) In the heading, for **"of driving instructors and licences to give instruction"** substitute " etc. of driving instructors etc. ".

33 (1) Part 1 of Schedule 2 (prosecution and punishment of offences: offences under the Traffic Acts) is amended as follows.

(2) In the entry relating to section 123(4) of the Road Traffic Act 1988 (c. 52)—
- (a) in column 1, for "123(4)" substitute " 123A(1) and (2) ", and
- (b) in column 2, for "by unregistered and unlicensed persons or their employers" substitute " , and carrying on of business in provision of driving instruction, by unregistered persons ".

(3) In the entry relating to section 123(6) of that Act—
- (a) in column 1, for "123(6)" substitute " 123A(4) ", and
- (b) in column 2, for "without there being exhibited on the motor car a certificate of registration or a licence under RTA Part 5" substitute " , and carrying on of business in provision of driving instruction, without prescribed requirements relating to displaying of evidence of registration under RTA Part 5 being complied with ".

(4) In the entry relating to section 133C(4) of that Act, in column 2, omit "or licensed".

(5) In the entry relating to section 133D of that Act, in column 2, omit "or their employers".

(6) In the entry relating to section 135 of that Act, for the words in column 2 substitute " Misuse of evidence of registration etc. ".

(7) In the entries relating to sections 136 and 137 of that Act, in column 2, for "or licence" substitute " etc. ".

SCHEDULE 7

Section 59

REPEALS AND REVOCATIONS

Commencement Information
I128 Sch. 7 partly in force at Royal Assent see s. 61

(1) Graduated fixed penalties

Short title and chapter	*Extent of repeal*
Domestic Violence, Crime and Victims Act 2004 (c. 28)	Section 16(2).

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Commencement Information
I129 Sch. 7(1) in force at 5.1.2009 by S.I. 2008/3164, **art. 2(d)**

(2) Giving of fixed penalty notices by vehicle examiners

Short title and chapter	***Extent of repeal***
Road Traffic Offenders Act 1988 (c. 53)	In section 54(5), the words "he surrenders". In section 61(2), the words "fixed penalty clerk must not endorse the". In section 66(8), the word "and" after the definition of "hiring agreement". In section 73, in subsection (5), the words "by or on behalf of the chief officer of police" and the word "such" and, in subsection (7), the words "by or on behalf of the chief officer of police". In section 79(1), the words "constable or authorised". In section 89(1), the word "and" before the definition of "proceedings".
Road Traffic (New Drivers) Act 1995 (c. 13)	In section 2, in subsection (4), the words ", the fixed penalty clerk" and, in subsection (5), the words "by the fixed penalty clerk".
Police Reform Act 2002 (c. 30)	Section 76(4).
Railways and Transport Safety Act 2003 (c. 20)	Section 69(3). Section 109.
Crime (International Co-operation) Act 2003 (c. 32)	In Schedule 5, paragraphs 47(b), 55(b) and 57(b).
Courts Act 2003 (c. 39)	In Schedule 8, paragraphs 314 and 321.

Commencement Information
I130 Sch. 7(2) in force at 31.3.2009 by S.I. 2008/3164, **art. 3(d)**

(3) Endorsement: unlicensed and foreign drivers

Short title or title and reference	***Extent of repeal or revocation***
Road Traffic Offenders Act 1988 (c. 53)	In the heading of section 31, the words "on licence". In section 45(1), the words ", whether he is at the time the holder of a licence or not,". In section 70(4), the word "and" at the end of paragraph (a).

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Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22)	In Schedule 3, paragraph 2(bb).
The Driving Licences (Community Driving Licence) Regulations 1990 (S.I. 1990/144)	In Schedule 2, paragraphs 6 and 9. In Schedule 3, paragraph 3(2)(b).
Road Traffic Act 1991 (c. 40)	In Schedule 4, paragraph 93.

Commencement Information
I131 Sch. 7(3) in force at 1.4.2009 by S.I. 2008/3164, **art. 4(c)**

(4) Endorsement: all drivers

Short title or title and reference	***Extent of repeal or revocation***
Public Passenger Vehicles Act 1981 (c. 14)	Section 24(3).
Road Traffic Act 1988 (c. 52)	In section 88(6), the words “, counterparts of licences”. In section 92(7ZB)(a) and (7C), the words “and its counterpart”. In section 93— (a) in subsections (2)(b) and (3), the words “and its counterpart”, and (b) in subsection (4)(a), the words “or its counterpart”. In section 97— (a) in sub-paragraph (i) of paragraph (c) of subsection (1), the words “and its counterpart”, (b) in sub-paragraph (ia) of that paragraph, the words from “together” to the end, (c) in sub-paragraph (ii) of that paragraph, the words “and its counterpart (if any) issued to him”, and (d) in subsection (1AA), the words “together with the counterparts mentioned in that sub-paragraph” and the words “and its Northern Ireland counterpart”. In section 98(1)(c), the words “or its counterpart”. In section 98A— (a) in subsection (1), the words “and their counterparts”, (b) in subsection (3), the words “(and their counterparts)”, (c) in subsection (4), the words “(with its counterpart)”, and (d) in subsection (7), the words “and its counterpart”. In section 99—

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(a) in subsection (2A), the words "and its counterpart",
(b) in subsection (3), paragraph (aa), in paragraph (b), the words "or in its counterpart" and the words "and its counterpart",
(c) in subsection (4), the words "and its counterpart",
(d) in subsection (6), the words "and its counterpart" in both places, and
(e) in subsections (7) and (7ZA), the words "and its counterpart".

Section 99A(5) and (6).

Section 99B—
(a) subsections (3), (6) and (8),
(b) in subsection (11)(b), the words "(6) or", and
(c) subsection (12).

In section 99C—
(a) in subsections (1) to (4), the words "and its counterpart (if any)" in each place, and
(b) subsection (5).

In section 105(2)—
(a) sub-paragraph (iii) of paragraph (b) and the word "or" before it,
(b) in paragraph (e), the words "and counterparts of licences" and the words "or counterparts of licences", and
(c) paragraph (ea).

In section 108, the definition of "counterpart".

In section 109B—
(a) in subsection (1), the words from "together" to the end,
(b) in subsection (2), in paragraph (a), the words "together with the relevant counterparts" and, in paragraph (b), the words "and those counterparts",
(c) in subsection (4), the words "and the relevant counterparts", and
(d) subsection (5).

In section 115A(1), the words "and its counterpart (if any)".

In section 117A, the words "and its counterpart (if any)" in both places.

In section 118—
(a) in subsection (1), the words "and its counterpart",
(b) in subsection (4), the words "and its counterpart", and
(c) subsection (5).

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	In section 121, the definition of "counterpart". In section 125A(8), in paragraph (c) of the definition of "disabled person's limited driving licence", the words "and a counterpart of that licence". In section 141A(5), the words "and "counterpart", in relation to a Community licence". In section 142, the words "and counterpart". In section 164— (a) the words "and its counterpart" in each place, and (b) in subsection (11), the reference to "counterpart". In section 173— (a) in paragraph (a) of subsection (2), the words from "or" to the end, (b) paragraph (aa) of that subsection, and (c) in subsection (4), the word " "counterpart",". Section 176(1A), (3A) and (8).
Road Traffic Offenders Act 1988 (c. 53)	In section 7(1), the words from "and the foregoing" to the end. In section 26— (a) in subsections (7), (8) and (9)(b), the words "and its counterpart" and the words "and counterpart", and (b) subsection (14). In section 27, the words "and its counterpart" in each place. In section 29— (a) in subsection (1)(b), the words "the counterpart of any licence held by him or on", and (b) subsection (3). In section 30— (a) in subsection (1)(b), the words "the counterpart of his licence or", and (b) in subsection (2)(b), the words "on the counterpart of his licence or". In section 31(1), the words "the counterpart of his licence or on". Section 32. Section 36(10). Section 42(5A). Section 44(3A). Section 45. In section 46(2), the words "the counterpart of any licence held by him or on". In section 47—

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(a) in subsection (2A), the words "and its counterpart",
(b) in subsection (3), the words "a licence or",
(c) in subsection (3A), the words "in relation to a person who is not the holder of a licence,", and
(d) in subsection (4), the words "and the counterpart of a licence".

In section 48—
(a) in subsections (1) and (2), the words "the counterpart of any licence held by him or on", and
(b) subsection (3).

In section 54(7), the words "and a counterpart of a licence".

In section 56, the words "and its counterpart" in each place.

Section 57.

In section 57A(1), the words "who is not the holder of a licence".

Section 58.

Section 61.

In section 61A—
(a) in subsection (1), the words "but who is not the holder of a licence,", and
(b) in the heading, the words "to unlicensed person".

In section 72—
(a) subsection (4),
(b) in subsection (5), the words "57 or", and
(c) subsection (6).

In section 75—
(a) subsection (8),
(b) in subsection (8A), the words "who is not the holder of a licence", and
(c) subsection (12).

In section 76—
(a) in paragraph (a) of subsection (3), the words "inspecting the licence and its counterpart or (where the alleged offender is not the holder of a licence)",
(b) in paragraph (b) of that subsection, the words "and its counterpart", and
(c) subsection (8).

Section 77.

In section 77A(1) and (2), the words "who is not the holder of a licence".

In section 83—
(a) subsection (1),
(b) in subsection (1A), the word "also", and

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(c) in subsection (2), the words "57 or" and the words "77 or".

In section 91ZA—

(a) in paragraph (b) of subsection (1), the words "and (9)(b)",
(b) paragraphs (d) to (f) and (h) to (j) of that subsection,
(c) in paragraph (k) of that subsection, the words ", (3) and (3A)",
(d) paragraph (l) of that subsection,
(e) subsections (3) to (6),
(f) in subsection (7), the words "and its counterpart (if any)", and
(g) in subsection (8), the words "and its counterpart".

Section 91ZB.

In section 91A—

(a) subsections (2) to (4),
(b) in subsection (5), the words "and its counterpart (if any)", and
(c) subsections (6) and (8) to (10).

Section 91B.

In section 98(1), the word " "counterpart",".

In Schedule 1—

(a) in the entries relating to sections 98A(7) and 99(5) of the Road Traffic Act 1988, the words "and counterpart", and
(b) in the entry relating to section 164(6) of that Act, the words "and counterpart etc.".

In Part 1 of Schedule 2, in the entries relating to the following provisions, the words "and counterpart"—

(a) section 92(7C) of the Road Traffic Act 1988 (c. 52),
(b) section 93(3) of that Act,
(c) section 98A(7) of that Act,
(d) section 99(5) of that Act,
(e) section 118 of that Act,
(f) section 26 of the Road Traffic Offenders Act 1988, and
(g) section 27 of that Act.

In Part 1 of Schedule 2—

(a) in the entry relating to section 164 of the Road Traffic Act 1988 (c. 52), the words "or counterpart etc.", and
(b) in the entry relating to section 173 of that Act, the words "counterparts of Community licence,".

In Schedule 5, in the entry relating to section 99(5) of the Road Traffic Act 1988—

(a) the words "and its counterpart", and
(b) the words "and counterpart".

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Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22)	In Schedule 3— (a) paragraph 2(b), (b) paragraph 16(b), and (c) paragraph 25.
The Driving Licences (Community Driving Licence) Regulations 1990 (S.I. 1990/144)	In Schedule 1— (a) paragraphs 1 to 3, (b) paragraph 5(a)(ii) and (iii), (c) paragraph 5(b) to (d), (d) paragraph 8, (e) paragraph 9(a), (b)(i), (iii) and (iv) and (c) to (h), and (f) paragraphs 10 to 12. In Schedule 2— (a) paragraphs 1 and 2, (b) paragraph 3(a) and (c), (c) paragraph 5, (d) paragraph 8, and (f) paragraphs 10 to 28. In Schedule 3— (a) paragraph 1(a), (b) paragraph 2, and (c) paragraph 3(2)(a).
Road Traffic Act 1991 (c. 40)	In Schedule 4— (a) paragraph 99, (b) paragraph 100(2), and (c) paragraph 104.
Child Support Act 1991 (c. 48)	In section 40B— (a) in subsection (4), the words from “and” to the end, and (b) in subsection (9), the words “and its counterpart”.
Road Traffic (New Drivers) Act 1995 (c. 13)	In section 2— (a) in subsection (3)(c), the words “appropriate person endorses the number of”, and (b) in subsection (4)(a), the words “and its counterpart”. In section 9(5), the words “and its counterpart” in both places. In Schedule 1— (a) in paragraph 3(2), the words “and its counterpart”, (b) in paragraph 3(4)(a), the words “(with its counterpart)”, (c) in paragraph 7(4)(a), the words “and its counterpart”, and (d) in paragraph 8(1)(a), the words “and its counterpart”. In Schedule 2, paragraph 6.

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The Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974)	In Schedule 1— (a) paragraph 17(b), (b) paragraph 19(2)(c), (c) paragraph 28(2)(b), (d) paragraph 31, and (e) paragraph 32(2). In Schedule 2— (a) paragraph 5, and (b) paragraph 6(a). In Schedule 4, paragraph 4.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 146— (a) in paragraph (a) of subsection (4), the words “together with its counterpart”, (b) in paragraphs (aa) and (b) of that subsection, the words “and its counterpart (if any)”, and (c) in subsection (5), the definition of “counterpart”. In section 147(5)— (a) in paragraph (a), the words “together with its counterpart”, and (b) in paragraphs (aa) and (b), the words “and its counterpart (if any)”.
Crime (International Co-operation) Act 2003 (c. 32)	In section 63— (a) the words “and its counterpart” in each place, and (b) in subsection (7), the second sentence. In section 64— (a) the words “and its counterpart” in each place, and (b) in subsection (7), the second sentence. In section 74(1), the definition of “counterpart”. In Schedule 5— (a) paragraph 23(a)(ii) and (iii) and (b), (b) paragraph 25(a), (c) paragraph 26(b), (d) paragraph 28, (e) paragraph 29(a), (f) paragraph 35(a), and (g) paragraph 73(b).
Criminal Justice Act 2003 (c. 44)	In section 301— (a) in paragraph (a) of subsection (6), the words “together with its counterpart”, (b) in paragraph (b) of that subsection, the words “and its counterpart (if any)”, and (c) in subsection (7), the definition of “counterpart”.
Road Safety Act 2006 (c. 49)	Section 9(2)(a) and (4). Section 14.

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	Section 58(3). In Schedule 1— (a) paragraph 3(4) to (7), (b) paragraph 5, (c) paragraph 6, (d) paragraph 13(2), (e) paragraph 15(6), (f) paragraph 16(6), (g) paragraph 17, (h) paragraph 21(2), (i) in paragraph 25(2)(b), the word "(c),", and (j) paragraph 26(2). In Schedule 2— (a) paragraph 1, (b) paragraph 8(2), (3) and (5), (c) paragraph 9, (d) paragraph 14(3), (4) and (5), (e) paragraph 15, (f) paragraph 16, (g) paragraph 18, (h) paragraph 24(2) to (4) and (7), (i) paragraph 25(3), (j) paragraph 26, (k) paragraph 29, (l) paragraph 31, and (m) paragraph 32.

(5) Period of endorsement for failure to allow specimen to be tested

Short title and chapter	*Extent of repeal*
Road Traffic Offenders Act 1988 (c. 53)	In section 45(7), the word "or" at the end of paragraph (a).

Commencement Information

I132 Sch. 7(5) in force at 24.9.2007 by S.I. 2007/2472, **art. 2(n)**

(6) Speeding: penalty points

Short title and chapter	*Extent of repeal*
Road Traffic Act 1991 (c. 40)	In Schedule 2, paragraphs 3 and 4.

(7) Exemption from speed limits

Short title and chapter	*Extent of repeal*
Fire and Rescue Services Act 2004 (c. 21)	In Schedule 1, paragraph 55.

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Serious Organised Crime and Police Act 2005 (c. 15)	In Schedule 4, paragraph 42.
Fire (Scotland) Act 2005 (asp 5)	In Schedule 3, paragraph 12.

(8) Reduced disqualification period for attendance on course

Short title and chapter	***Extent of repeal***
Road Traffic Act 1991 (c. 40)	Section 30.
Access to Justice Act 1999 (c. 22)	In Schedule 13, paragraphs 145 and 146.

(9) Driving tests

Short title and chapter	***Extent of repeal***
Road Traffic Act 1988 (c. 52)	In section 89(5), paragraph (b) and the word "and" before it.
Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22)	In Schedule 3, paragraph 8(a).

Commencement Information
I133 Sch. 7(9) in force at 27.2.2007 by S.I. 2007/237, **art. 2(e)**

(10) Disqualification until test is passed

Short title and chapter	***Extent of repeal***
Road Traffic Act 1988 (c. 52)	In section 173(2), the word "and" after paragraph (l).
Road Traffic Offenders Act 1988 (c. 53)	Section 36(14).

(11) Granting of full licence

Short title and chapter	***Extent of repeal***
Road Traffic Act 1988 (c. 52)	In section 98(1)(c), the words "in the case of a provisional licence". In section 195(3), the words "is exercised".

(12) Fee for renewal of photocard licence and issue of certain alternative licences

Short title and chapter	***Extent of repeal***
Road Traffic Act 1988 (c. 52)	In section 99(7), the words "and any licence granted under this subsection shall be granted free of charge".

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Commencement Information
I134 Sch. 7(12) in force at 27.2.2007 by S.I. 2007/237, **art. 2(e)**

(13) Driver training

Short title and chapter	***Extent of repeal***
Road Traffic Act 1988 (c. 52)	In section 99ZC(1), the word "and" at the end of paragraph (d).
Road Traffic Act 1991 (c. 40)	In Schedule 4, paragraph 73(5).

Commencement Information
I135 Sch. 7(13) in force at 24.9.2007 by S.I. 2007/2472, **art. 2(n)**

(14) Driving instruction

Short title or title and reference	***Extent of repeal or revocation***
Road Traffic Act 1988 (c. 52)	Section 125B(6) and (7). Sections 129 and 130. Section 131(2). Section 133C(1). Section 133D(1). In section 137(1), the words ", or to whom a licence under this Part of this Act is granted,". In section 195(2), the words "or Part 5".
Road Traffic Offenders Act 1988 (c. 53)	In Schedule 2, in column 2— (a) in the entry relating to section 133C(4) of the Road Traffic Act 1988, the words "or licensed", and (b) in the entry relating to section 133D of that Act, the words "or their employers".
Road Traffic (Driving Instruction by Disabled Persons) Act 1993 (c. 31)	Section 2. In the Schedule, paragraphs 2 to 9.
Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974)	In Schedule 1, paragraph 29.
Police Act 1997 (c. 50)	In Schedule 9, paragraph 58.
Motor Cars (Driving Instruction) (Admission of Community Licence Holders) Regulations 1999 (S.I. 1999/357)	Regulation 2(2), (4) and (5).
Transport Act 2000 (c. 38)	In section 258(2), the words "and (2)". Section 259(2) and (3). In Schedule 29, paragraphs 7, 8, 9 and 11.

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Courts Act 2003 (c. 39)	In Schedule 8, paragraph 309.
Serious Organised Crime and Police Act 2005 (c. 15)	In Schedule 4, paragraph 53.

(15) Registration plate suppliers: extension to Scotland and Northern Ireland

Short title and chapter	***Extent of repeal***
Vehicles (Crime) Act 2001 (c. 3)	In section 17(1), the words "in England or Wales".

(16) Safety arrangements at level crossings

Short title and chapter	***Extent of repeal***
Level Crossings Act 1983 (c. 16)	In section 1— (a) in subsection (3)(b), the words "barriers or other", and (b) in subsection (11), the definition of "local authority".

Commencement Information
I136 Sch. 7(16) in force at 27.2.2007 by S.I. 2007/237, **art. 2(e)**

(17) Hackney carriages and private hire vehicles

Short title and chapter	***Extent of repeal***
Local Government (Miscellaneous Provisions) Act 1976 (c. 57)	Section 75(1)(b).
Private Hire Vehicles (London) Act 1998 (c. 34)	In section 1(1)(a), in the definition of "private hire vehicle", the words "to the public".

(18) Trunk road picnic areas

Short title and chapter	***Extent of repeal***
Highways Act 1980 (c. 66)	In section 112— (a) in subsection (1), the words "that is not a special road", (b) in subsection (4), the words ", other than a council,", and (c) in subsection (5), the words "that is not a special road".

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(19) Spent enactments

Short title and chapter	***Extent of repeal***
Criminal Justice Act 1972 (c. 71)	Section 24(3).
Road Traffic Act 1988 (c. 52)	In section 89— (a) in subsection (1)(a) and (d), the words "or that, if it is available to him, he satisfies the alternative requirement of section 89A of this Act", and (b) in subsection (6), the words "or section 89A(2)(b)(iii) below". Section 89A(2), (3) and (6).
Road Traffic Offenders Act 1988 (c. 53)	In section 84(1), the words "60(1),".

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