

ROAD SAFETY ACT 2006

EXPLANATORY NOTES

NEW OFFENCES

Section 20: Causing death by careless, or inconsiderate, driving

68. *Subsection (1)* of this section inserts new section 2B in the RTA, which makes provision for a new criminal offence of causing death by careless, or inconsiderate, driving.
69. *Subsection (2)(a)* amends section 24(1) of the RTOA to provide that conviction of an offence under section 2B may be an alternative verdict where a charge under section 1 RTA (causing death by dangerous driving) has been unsuccessful.
70. *Subsection (2)(b)* amends section 24(1) RTOA to provide that conviction of an offence under section 3 RTA (careless, and inconsiderate, driving) may be an alternative verdict to conviction of an offence under section 2B.
71. *Subsection (2)(c)* amends section 24(1) RTOA to provide that conviction of an offence under section 2B may be an alternative verdict to conviction of an offence under section 3A (causing death by careless driving when under the influence of drink or drugs).
72. *Subsection (3)* provides for sections 11 and 12(1) RTOA to apply to the offence under section 2B. Section 11 provides a mechanism for proving who was driving the car whereby this is certified by a constable. Section 12(1) relates to proving the identity of a driver in summary proceedings whereby the accused has stated in writing that he was the driver.
73. *Subsection (4)* creates an entry in Schedule 2 to the RTOA, making provision for the section 2B offence to be triable either way and setting out the maximum penalties available on summary conviction (12 months' imprisonment in England and Wales, 6 months' imprisonment in Scotland and/or a fine of £5,000) and on indictment (5 years or a fine or both). It also sets out that the offence will be subject to mandatory disqualification and endorsement and sets the range of penalty points available for this offence (3-11).
74. *Subsection (5)* inserts a reference to section 2B into sections 16 and 17 of the Coroners Act 1988 to provide for the adjournment of inquests in the event of criminal proceedings.
75. *Subsection (6)* inserts a reference to section 2B into Schedule 3 to the Crime (International Co-operation) Act 2003 to provide that the Secretary of State may inform the authorities of a third country state where one of that state's nationals is disqualified from driving as a consequence of that offence.

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

76. *Subsection (1)* of this section inserts new section 3ZB in the RTA, which makes provision for a new offence committed where a person causes a death by driving and

is, at the time of that act, driving either otherwise than in accordance with a licence or whilst disqualified or without insurance.

77. *Subsection (2)* provides for sections 11 and 12(1) RTOA to apply to the offence under section 3ZB. Section 11 provides a mechanism for proving who was driving the car whereby this is certified by a constable. Section 12(1) relates to proving the identity of a driver in summary proceedings whereby the accused has stated in writing that he was the driver.
78. *Subsection (3)* creates an entry in Schedule 2 to the RTOA, making provision for the section 3ZB offence to be triable either way and setting out the maximum penalties available on summary conviction (12 months' imprisonment in England and Wales, 6 months' imprisonment in Scotland, and/or a fine of £5,000) and on indictment (2 years or a fine or both). It also sets out that the offence will be subject to mandatory disqualification and endorsement and sets the range of penalty points available for this offence (3-11).
79. *Subsection (4)* inserts a reference to section 3ZB into sections 16 and 17 of the Coroners Act 1988 to provide for the adjournment of inquests in the event of criminal proceedings.
80. *Subsection (5)* inserts a reference to section 3ZB into Schedule 3 to the Crime (International Co-operation) Act 2003 to provide that the Secretary of State may inform the authorities of a third country state where one of that state's nationals is disqualified from driving as a consequence of that offence.

Section 22 and Schedule 5: Offence of keeping vehicle which does not meet insurance requirements and New Schedule 2A to the Road Traffic Act 1988

81. These provisions provide for a new scheme intended to combat uninsured driving.
82. **Section 22** inserts new sections 144A, 144B, 144C, 144D and 159A into the RTA and makes a number of consequential amendments to the RTOA. Schedule 5 inserts a new schedule - Schedule 2A to the RTA.
83. Section 143 of the RTA makes it an offence to use a vehicle on a road or other public place without a policy of insurance or security against third party liability as required by Part 6 of the RTA. The new scheme will create a new offence of being the registered keeper of a vehicle the use of which is not insured against third party liability as required by Part 6 of the RTA. It will therefore be possible to detect the new offence from records of registered keepers held by DVLA and insurance records.
84. Section 144A creates the new offence which arises when a vehicle does not meet the insurance requirements. Under the insurance requirements the registration mark of a vehicle, or the vehicle's owner, must be specified in an insurance policy or security. There are a number of exceptions to the offence set out in the new section 144B. Some of these are similar to the exceptions in section 144 of the RTA which apply to the section 143 offence of using a vehicle without insurance. They include vehicles owned by local authorities, the police and the National Health Service. Other exceptions may apply where the vehicle is no longer kept by the registered keeper; it is not kept for use on a road or other public place or has been stolen. The exceptions apply only if a prior statement (such as a statutory off-road "SORN" declaration) has been made to the appropriate authorities as required by regulations.
85. Under the new section 144C the Secretary of State can serve a fixed penalty notice on a person whom he believes has committed an offence under section 144A. The amount of fixed penalty is £100 which is variable by statutory instrument.
86. Section 144D introduces the new Schedule 2A. Under this Schedule the Secretary of State can make regulations which enable an authorised person to clamp vehicles upon reasonable suspicion that a section 144A offence has been committed and to enable the

*These notes refer to the Road Safety Act 2006 (c.49)
which received Royal Assent on 8 November 2006*

removal and disposal of such vehicles, including the time and manner in which such vehicles may be disposed of. Regulations may exempt a vehicle with a current disabled person's badge, or which meets other prescribed conditions, from being clamped. The Regulations may enable a person to obtain release of a clamped or an impounded vehicle if he or she pays any due charges and can show (a) that in driving the vehicle away he or she will not be committing an offence under section 143 of the RTA and (b) that the registered keeper is not guilty of an offence under the new section 144A. If the vehicle has already been disposed of, the regulations may provide for a sum to be paid to the vehicle's owner provided the claim is made within a prescribed period.

87. Regulations may also make it a criminal offence to interfere with a clamp or associated notice, use a vehicle in breach of statutory requirements in connection with disabled persons or give any false declaration to secure release of a vehicle.
88. Section 159A enables regulations to be made which require the Motor Insurers' Information Centre to provide information to prescribed persons. This information, together with records held by DVLA, will enable identification of registered keepers committing the offence under section 144A. The information can also be used for enforcement of other offences under Part 6 of the RTA (Third Party Liabilities) or offences made under regulations under section 160 of that Act, including those relating to immobilisation and release of vehicles provided for in the new Schedule 2A.
89. Finally, section 22 makes consequential amendments to the RTOA in connection with the new offence in section 144A and the offences which may be created by regulations.