

**2011 No. 2490**

**CONSTITUTIONAL LAW**

**DEVOLUTION, SCOTLAND**

**ROAD TRAFFIC, SCOTLAND**

**The Prostitution (Public Places) (Scotland) Act 2007  
(Disqualification from Driving) Order 2011**

*Made* - - - - - *18th October 2011*

*Laid before Parliament* *20th October 2011*

*Coming into force in accordance with article 1*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(3) of the Scotland Act 1998(a).

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Prostitution (Public Places) (Scotland) Act 2007 (Disqualification from Driving) Order 2011 and shall come into force 21 days after the day on which it is laid before Parliament.

(2) This Order extends to Scotland only.

**Interpretation**

2. In this Order—

“the 1988 Act” means the Road Traffic Act 1988(b);

“the 2007 Act” means the Prostitution (Public Places) (Scotland) Act 2007(c);

“Community licence” has the meaning given by section 108(1) of the 1988 Act(d);

“counterpart” means a counterpart of a licence to drive a motor vehicle and—

(a) in relation to a licence to drive a motor vehicle granted under Part III of the 1988 Act, has the meaning given by paragraph (a) of the definition of “counterpart” in section 108(1) of that Act(e);

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(a) 1998 c.46.

(b) 1988 c.52.

(c) 2007 (asp 11).

(d) This definition in section 108(1) was amended by the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974), Schedule 1, paragraph 19.

(e) This definition in section 108(1) was relevantly amended by the Crime (International Co-operation) Act 2003 (c.32), Schedule 6, paragraph 1 and is to be repealed by the Road Safety Act 2006 (c.49), Schedule 3 paragraph 14, but that repeal is not yet in force.

- (b) in relation to a Northern Ireland licence, has the meaning given by section 109A(1) of that Act(a);
- (c) in relation to a Community licence, has the meaning given by section 99B(3) of that Act(b);

“disqualification order” means an order under article 3(1);

“motor vehicle” has the meaning given by section 185(1) of the 1988 Act;

“Northern Ireland licence” has the meaning given by section 108(1) of the 1988 Act(c).

### **Power to disqualify from holding or obtaining a licence**

3.—(1) Where—

- (a) a person is convicted by a court of a relevant offence; and
- (b) the court is satisfied that, at the time the offence was committed, the person was driving or was otherwise in charge of a motor vehicle,

the court may make an order that the person is to be disqualified from holding or obtaining a licence to drive a motor vehicle granted under Part III of the 1988 Act.

(2) For the purposes of paragraph (1), a “relevant offence” is an offence under any of the following provisions of the 2007 Act—

- (a) section 1(1) (soliciting for prostitution); and
- (b) section 1(3) (loitering for prostitution).

(3) A disqualification order—

- (a) may be made in addition to, or instead of, any other disposal available to the court (including a disposal under section 1(5) of the 2007 Act); and
- (b) is to be framed so as to have effect for such period as the court considers appropriate in all the circumstances.

(4) A disqualification order may not be made in respect of an offence committed before the coming into force of this Order.

### **Requirement to surrender licence**

4. A court which makes a disqualification order must require the person in respect of whom the order is made to produce any of the following held by the person—

- (a) a licence to drive a motor vehicle granted under Part III of the 1988 Act;
- (b) a Northern Ireland licence;
- (c) a Community licence; and
- (d) a counterpart of a licence mentioned in paragraphs (a) to (c).

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(a) Section 109A(1) was inserted by the Crime (International Co-operation) Act 2003 (c.32), section 77(1) and new wording is to be substituted by the Road Safety Act 2006 (c.49), Schedule 3, paragraph 16(4), but that substitution is not yet in force.

(b) Section 99B(3) was inserted by the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974), Schedule 1, paragraph 10 and is to be repealed by the Road Safety Act 2006 (c.49), Schedule 3, paragraph 11(2) but that repeal is not yet in force.

(c) This definition in section 108(1) was inserted by the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c.22), section 7 and Schedule 3, paragraph 15.

### **Appeals procedure**

5. A person in respect of whom a disqualification order is made may appeal against the order as if it were a sentence imposed by the court on summary conviction.

*David Mundell*  
Parliamentary Under Secretary of State  
Scotland Office

Dover House,  
London  
18th October 2011

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision which is consequential on the Prostitution (Public Places) (Scotland) Act 2007 (“the 2007 Act”).

The 2007 Act creates offences in Scotland relating to soliciting or loitering for the purpose of obtaining the services of a person engaged in prostitution.

The 2007 Act provides that these offences are punishable by a fine not exceeding level 3 on the standard scale. Article 3 of this Order gives additional powers to the court which will allow the convicting court to disqualify the offender from driving in addition to or instead of any other disposal but only where the offender is driving, or is otherwise in charge of, a motor vehicle at the time that the offence is committed. Article 4 requires the person subject to such a disqualification to surrender any licence held by that person. Article 5 makes provision about appeals following such a disqualification. The general right of appeal against summary conviction under section 175 of the Criminal Procedure (Scotland) Act is made available.

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