



Vehicle Excise and Registration Act 1994

1994 CHAPTER 22

PART III

OFFENCES

Offence of using or keeping unlicensed vehicle

29 Penalty for using or keeping unlicensed vehicle.

- (1) If a person uses, or keeps, on a public road a vehicle (not being an exempt vehicle) which is unlicensed he is guilty of an offence.
- (2) For the purposes of subsection (1) a vehicle is unlicensed if no vehicle licence or trade licence is in force for or in respect of the vehicle.
- (3) [^{F1}Subject to subsection (3A)] a person guilty of an offence under subsection (1) is liable on summary conviction to an excise penalty of—
 - (a) level 3 on the standard scale, or
 - (b) five times the amount of the vehicle excise duty chargeable in respect of the vehicle,whichever is the greater.

[^{F2}(3A) In the case of a person who—

- (a) has provided the Secretary of State with a declaration or statement (in pursuance of regulations under section 22) that the vehicle will not during a period specified in the declaration or statement be used or kept on a public road, and
- (b) commits an offence under subsection (1) within a period prescribed by regulations,

subsection (3) applies as if the reference in paragraph (a) to level 3 were a reference to level 4.]

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- (4) Where a vehicle for which a vehicle licence is in force is transferred by the holder of the licence to another person, the licence is to be treated for the purposes of subsection (2) as no longer in force unless it is delivered to the other person with the vehicle.
- (5) Where—
- (a) an application is made for a vehicle licence for any period, and
 - (b) a temporary licence is issued pursuant to the application,
- subsection (4) does not apply to the licence applied for if, on a transfer of the vehicle during the currency of the temporary licence, the temporary licence is delivered with the vehicle to the transferee.
- (6) The amount of the vehicle excise duty chargeable in respect of a vehicle is to be taken for the purposes of subsection (3)(b) to be an amount equal to the annual rate of duty applicable to the vehicle at the date on which the offence was committed.
- (7) Where in the case of a vehicle kept (but not used) on a public road that annual rate differs from the annual rate by reference to which the vehicle was at that date chargeable under section 2(2) to (4), the amount of the vehicle excise duty chargeable in respect of the vehicle is to be taken for those purposes to be an amount equal to the latter rate.
- (8) In the case of a conviction for a continuing offence, the offence is to be taken for the purposes of subsections (6) and (7) to have been committed on the date or latest date to which the conviction relates.

Textual Amendments

- F1** Words in s. 29(3) inserted (29.4.1996 with effect as mentioned in [Sch. 2 para. 9\(2\)](#) of the amending Act) by [1996 c. 8, s. 23, Sch. 2 para. 9](#)
- F2** S. 29(3A) inserted (29.4.1996 with effect as mentioned in [Sch. 2 para. 9\(2\)](#) of the amending Act) by [1996 c. 8, s. 23, Sch. 2 para. 9](#)

30 Additional liability for keeper of unlicensed vehicle.

- (1) Where the person convicted of an offence under section 29 is the person by whom the vehicle in respect of which the offence was committed was kept at the time at which it was committed, the court shall (in addition to any penalty which it may impose under that section) order him to pay the amount specified in subsection (2).
- (2) The amount referred to in subsection (1) is an amount equal to one-twelfth of the annual rate of vehicle excise duty appropriate to the vehicle for each month, or part of a month, in the relevant period (within the meaning of section 31).
- (3) In relation to any month or part of a month in the relevant period, the reference in subsection (2) to the annual rate of vehicle excise duty appropriate to the vehicle is a reference to the annual rate applicable to it at the beginning of that month or part.
- (4) A vehicle is to be taken for the purposes of this section to have belonged throughout the relevant period to the description of vehicle to which it belonged for the purposes of vehicle excise duty at—
- (a) the date on which the offence was committed, or
 - (b) if the prosecution so elect, the date when a vehicle licence for it was last issued,

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except so far as it is proved to have fallen within some other description for the whole of any month or part of a month in that period.

- (5) In the case of a conviction for a continuing offence, the offence is to be taken for the purposes of this section to have been committed on the date or latest date to which the conviction relates.

31 Relevant period for purposes of section 30.

- (1) For the purposes of section 30 the relevant period is the period—
- ending with the date on which the offence was committed, and
 - beginning as provided by subsections (2) to (4).
- (2) Subject to subsection (4), if the person convicted has before the date of the offence notified the Secretary of State of his acquisition of the vehicle in accordance with regulations made by the Secretary of State, the relevant period begins with—
- the date on which the notification was received by the Secretary of State, or
 - the expiry of the vehicle licence last in force for the vehicle,
- whichever is the later.
- (3) Subject to subsection (4), in any other case the relevant period begins with—
- the expiry of the vehicle licence last in force for the vehicle before the date on which the offence was committed, or
 - if there has not at any time before that date been a vehicle licence in force for the vehicle, the date on which the vehicle was first kept by the person convicted.
- (4) Where—
- the person convicted has been ordered to pay an amount under section 30 on the occasion of a previous conviction for an offence in respect of the same vehicle, and
 - that offence was committed after the date specified in subsection (2) or (3) as the date with which the relevant period begins,
- the relevant period instead begins with the month immediately following that in which the earlier offence was committed.
- (5) Where the person convicted proves—
- that throughout any month or part of a month in the relevant period the vehicle was not kept by him, or
 - that he has paid the duty due^{F3} . . . in respect of the vehicle for any such month or part of a month,
- any amount which the person is ordered to pay under section 30 is to be calculated as if that month or part of a month were not in the relevant period.
- (6) Where a person has previously been ordered under section 36 to pay an amount for a month or part of a month in the case of a vehicle, any amount which he is ordered to pay under section 30 in the case of the vehicle is to be calculated as if no part of that month were in the relevant period.
- (7) In this section references to the expiry of a vehicle licence include a reference to—
- its surrender, and

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- (b) its being treated as no longer in force for the purposes of subsection (2) of section 29 by subsection (4) of that section.
- (8) In the case of a conviction for a continuing offence, the offence is to be taken for the purposes of this section to have been committed on the date or latest date to which the conviction relates.

Textual Amendments

F3 Words in s. 31(5)(b) repealed (1.5.1995 with effect as mentioned in Sch. 4 para. 35(2) and Sch. 29 Pt. V(3) Note 1 of the amending Act) by 1995 c. 4, ss. 19, 162, Sch. 4 Pt. VII para. 35, **Sch. 29 Pt. V(3)** Note 1

32 Sections 29 to 31: supplementary.

- (1) Where in the case of an offence under section 29 there is made against a person—
- (a) an order under section 1A of the ^{M1}Powers of Criminal Courts Act 1973 discharging him absolutely or conditionally,
 - [^{F4}(b) or an order under section 228 of the Criminal Procedure (Scotland) Act 1995 placing him on probation or under 246(3) of that Act discharging him absolutely, or]
 - (c) an order under the ^{M2}Probation Act (Northern Ireland) 1950 discharging him absolutely or conditionally or placing him on probation,
- he is to be treated for the purposes of sections 29 to 31 as having been convicted.
- (2) Section 30 has effect subject to the provisions (applying with the necessary modifications) of any enactment relating to the imposition of fines by magistrates' courts and courts of summary jurisdiction, other than any conferring a discretion as to their amount.
- (3) Where a sum is payable by virtue of an order under section 30—
- (a) in England and Wales, the sum is to be treated as a fine, and the order as a conviction, for the purposes of Part III of the ^{M3}Magistrates' Courts Act 1980 (including any enactment having effect as if contained in that Part) and of any other enactment relating to the recovery or application of sums ordered to be paid by magistrates' courts,
 - (b) in Scotland, the sum is to be treated as a fine, and the order as a conviction, for the purposes of any enactment relating to the recovery or application of sums ordered to be paid by courts of summary jurisdiction, and
 - (c) in Northern Ireland, the sum is recoverable as a sum adjudged to be paid by a conviction and is to be treated for all purposes as a fine within the meaning of section 20 of the ^{M4}Administration of Justice Act (Northern Ireland) 1954.

Textual Amendments

F4 S. 32(1)(b) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 90(2)**

Marginal Citations

M1 1973 c. 62.
M2 1950 c. 7 (N.I.).
M3 1980 c. 43.

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M4 1954 c. 9 (N.I.).

[^{F5}**32A** **Immobilisation, removal and disposal of vehicles.**

Schedule 2A (which relates to the immobilisation of vehicles as regards which it appears that an offence under section 29(1) is being committed and to their removal and disposal) shall have effect.]

Textual Amendments

F5 S. 32A inserted (1.5.1995) by 1995 c. 4, s. 19, Sch. 4 Pt. VII para. 36(1)

VALID FROM 24/07/2002

Offence of being registered keeper of unlicensed vehicle

31A **Offence by registered keeper where vehicle unlicensed**

- (1) If a vehicle registered under this Act is unlicensed, the person in whose name the vehicle is registered is guilty of an offence.
- (2) For the purposes of this section a vehicle is unlicensed if no vehicle licence or trade licence is in force for or in respect of the vehicle.
- (3) Subsection (1) does not apply to a vehicle if—
 - (a) it is an exempt vehicle in respect of which regulations under this Act require a nil licence to be in force and a nil licence is in force in respect of the vehicle, or
 - (b) it is an exempt vehicle that is not one in respect of which regulations under this Act require a nil licence to be in force.
- (4) Where a vehicle for which a vehicle licence is in force is transferred by the holder of the licence to another person, the licence is to be treated for the purposes of subsection (2) as no longer in force unless it is delivered to the other person with the vehicle.
- (5) Where—
 - (a) an application is made for a vehicle licence for any period, and
 - (b) a temporary licence is issued pursuant to the application,
 subsection (4) does not apply to the licence applied for if, on a transfer of the vehicle during the currency of the temporary licence, the temporary licence is delivered with the vehicle to the transferee.

Modifications etc. (not altering text)

C1 S. 31A excluded (27.11.2003) by The Finance Act 2002, Section 19 (Appointed Days etc.) Order 2003 (S.I. 2003/3086), {art. 3}

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31B Exceptions to section 31A

- (1) A person (“the registered keeper”) in whose name an unlicensed vehicle is registered at any particular time (“the relevant time”) does not commit an offence under section 31A at that time if any of the following conditions are satisfied.
- (2) The first 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 section 22(1)(d)—
 - (i) that are prescribed for the purposes of this condition, and
 - (ii) that he is required to have complied with by the relevant or any earlier time.
- (3) The second 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 neither kept nor used on a public road, and
 - (c) the registered keeper has by the relevant time complied with any requirements under section 22(1D)—
 - (i) that are prescribed for the purposes of this condition, and
 - (ii) that he is required to have complied with by the relevant or any earlier time.
- (4) The third 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 (6) 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.
- (5) The fourth condition is that the relevant time falls within a period (“the grace days”)—
 - (a) beginning with the expiry of the last vehicle licence to be in force for the vehicle, and
 - (b) of a prescribed length,
 and a vehicle licence for the vehicle is taken out within the grace days for a period beginning with the grace days.
- (6) The Secretary of State may by regulations make provision for the purposes of subsection (4)(c) as to the persons to whom, the times at which and the manner in which the theft of a vehicle is to be notified.
- (7) The Secretary of State may by regulations make provision amending this section for the purpose of providing for further exceptions to section 31A(1) (or varying or revoking any such further exceptions).
- (8) A person accused of an offence under section 31A(1) 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.
- (9) In this section—

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- (a) references to the expiry of a vehicle licence include a reference to—
 - (i) its surrender, and
 - (ii) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section;
- (b) “prescribed” means prescribed by regulations made by the Secretary of State.

31C Penalties for offences under section 31A

- (1) A person guilty of an offence under section 31A(1) is liable on summary conviction to—
 - (a) an excise penalty of—
 - (i) level 3 on the standard scale, or
 - (ii) five times the amount of vehicle excise duty chargeable in respect of the vehicle concerned,whichever is the greater; and
 - (b) if subsection (3) applies to him, an excise penalty (in addition to any under paragraph (a)) of an amount that complies with subsection (2).
- (2) An amount complies with this subsection if it—
 - (a) is not less than the greater of—
 - (i) the maximum of the penalty to which the person is liable under subsection (1)(a), and
 - (ii) the amount of the supplement (if any) that became payable by him by reason of non-renewal of the vehicle licence for the vehicle that last expired before the commission of the offence; and
 - (b) is not more than the greatest of—
 - (i) the maximum of the penalty to which the person is liable under subsection (1)(a),
 - (ii) the amount mentioned in paragraph (a)(ii), and
 - (iii) ten times the amount of vehicle excise duty chargeable in respect of the vehicle.
- (3) This subsection applies to the person if—
 - (a) he was, at the time proceedings for the offence were commenced, the person in whose name the vehicle concerned was registered under this Act, and
 - (b) that vehicle was unlicensed throughout the period beginning with the commission of the offence and ending with the commencement of those proceedings.
- (4) The amount of vehicle excise duty chargeable in respect of a vehicle is to be taken for the purposes of subsections (1) and (2) to be an amount equal to the annual rate of duty applicable to the vehicle at the date on which the offence was committed.
- (5) Where in the case of a vehicle kept (but not used) on a public road that annual rate differs from the annual rate by reference to which the vehicle was at that date chargeable under section 2(3) to (6), the amount of the vehicle excise duty chargeable in respect of the vehicle is to be taken for those purposes to be an amount equal to the latter rate.

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- (6) In the case of a conviction for a continuing offence, the offence is to be taken for the purposes of subsections (4) and (5) to have been committed on the date or latest date to which the conviction relates.
- (7) In this section, references to the expiry of a vehicle licence include a reference to—
- (a) its surrender, and
 - (b) its being treated as no longer in force for the purposes of subsection (2) of section 31A by subsection (4) of that section.

Other offences relating to licences

33 Not exhibiting licence.

- (1) A person is guilty of an offence if—
- (a) he uses, or keeps, on a public road a vehicle in respect of which vehicle excise duty is chargeable, and
 - (b) there is not fixed to and exhibited on the vehicle in the manner prescribed by regulations made by the Secretary of State a licence for, or in respect of, the vehicle which is for the time being in force.

- [^{F6}(1A) A person is guilty of an offence if—
- (a) he uses, or keeps, on a public road an exempt vehicle,
 - (b) that vehicle is one in respect of which regulations under this Act require a nil licence to be in force, and
 - (c) there is not fixed to and exhibited on the vehicle in the manner prescribed by regulations made by the Secretary of State a nil licence for that vehicle which is for the time being in force.]

- (2) A person guilty of an offence under subsection (1) [^{F7}or(1A)] is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

- [^{F8}(3) Subsections (1) and (1A)—
- (a) have effect subject to the provisions of regulations made by the Secretary of State, and
 - (b) are without prejudice to sections 29 and 43A.]

- [^{F9}(4) The Secretary of State may make regulations prohibiting a person from exhibiting on a vehicle [^{F10}which is kept or used on a public road] anything—
- (a) which is intended to be, or
 - (b) which could reasonably be,
- mistaken for a licence which is for, or in respect of, the vehicle and which is for the time being in force.]

- [^{F11}(5) The reference to a licence in subsection (4) includes a reference to a nil licence.]

Textual Amendments

- F6** S. 33(1A) inserted (1.4.1998) by 1997 c. 16, s. 18, **Sch. 3 para. 4(1)**; S.I. 1998/560, **art. 2**
- F7** Words in s. 33(2) inserted (1.4.1998) by 1997 c. 16, s. 18, **Sch. 3 para. 4(2)**; S.I. 1998/560, **art. 2**
- F8** S. 33(3) substituted (1.4.1998) by 1997 c. 16, s. 18, **Sch. 3 para. 4(3)**; S.I. 1998/560, **art. 2**
- F9** S. 33(4) inserted (29.4.1996) by 1996 c. 8, s. 23, **Sch. 2 para. 10**

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- F10** Words in s. 33(4) substituted (1.4.1998) by 1997 c. 16, s. 18, **Sch. 3 para. 4(4)**; S.I. 1998/560, **art. 2**
F11 S. 33(5) inserted (1.4.1998) by 1997 c. 16, s. 18, **Sch. 3 para. 4(5)**; S.I. 1998/560, **art. 2**

34 Trade licences: penalties.

- (1) A person holding a trade licence or trade licences is guilty of an offence if he—
- (a) uses at any one time on a public road a greater number of vehicles (not being vehicles for which vehicle licences are for the time being in force) than he is authorised to use by virtue of the trade licence or licences,
 - (b) uses a vehicle (not being a vehicle for which a vehicle licence is for the time being in force) on a public road for any purpose other than a purpose which has been prescribed under section 12(2)(b), or
 - (c) uses the trade licence, or any of the trade licences, for the purposes of keeping on a public road in any circumstances other than circumstances which have been prescribed under section 12(1)(c) a vehicle which is not being used on that road.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to an excise penalty of—
- (a) level 3 on the standard scale, or
 - (b) five times the amount of the vehicle excise duty chargeable in respect of (in the case of an offence under subsection (1)(a)) the vehicles which he is not authorised to use or (in the case of an offence under subsection (1)(b) or (c)) the vehicle concerned,
- whichever is the greater.
- (3) The amount of the vehicle excise duty chargeable in respect of a vehicle is to be taken for the purposes of subsection (2) to be an amount equal to the annual rate of duty applicable to the vehicle at the date on which the offence was committed.
- (4) Where in the case of a vehicle kept (but not used) on a public road that annual rate differs from the annual rate by reference to which the vehicle was at that date chargeable under section 2(2) to (4), the amount of the vehicle excise duty chargeable in respect of the vehicle is to be taken for those purposes to be an amount equal to the latter rate.
- (5) In the case of a conviction for a continuing offence, the offence is to be taken for the purposes of subsections (3) and (4) to have been committed on the date or latest date to which the conviction relates.

35 Failure to return licence.

- (1) A person who knowingly fails to comply with section 10(3) is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[^{F12}35A Dishonoured cheques.

- (1) In a case where—
- (a) a notice sent as mentioned in section 19A(2)(b) [^{F13} or 19B(2)(c)] or a further notice sent as mentioned in section 19A(3)(d) [^{F14} or 19B(3)(d)] requires the

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person to deliver up the licence within such reasonable period as is specified in the notice, and

(b) the person fails to comply with the requirement within that period,

he shall be liable on summary conviction to a penalty of an amount found under subsection (2).

(2) The amount is whichever is the greater of—

(a) level 3 on the standard scale;

(b) an amount equal to five times the annual rate of duty that was payable on the grant of the licence or would have been so payable if it had been taken out for a period of twelve months.]

Textual Amendments

F12 S. 35A inserted (1.5.1995 with effect as mentioned in Sch. 4 para. 33(4) of the amending Act) by 1995 c. 4, s. 19, Sch. 4 Pt. V para. 32(2)(4)

F13 Words in s. 35A(1)(a) inserted (19.3.1997) by 1997 c. 16, s. 19(2)(a)

F14 Words in s. 35A(1)(a) inserted (19.3.1997) by 1997 c. 16, s. 19(2)(b)

36 Dishonoured cheques: additional liability.

(1) Where a person has been convicted of an offence under section [F1535A] in relation to a vehicle licence or a trade licence, the court shall (in addition to any penalty which it may impose under that section) order him to pay the amount specified in subsection (2).

(2) The amount referred to in subsection (1) is an amount equal to one-twelfth of the appropriate annual rate of vehicle excise duty for each month, or part of a month, in the relevant period.

(3) The reference in subsection (2) to the appropriate annual rate of vehicle excise duty is a reference to the annual rate which at the beginning of the relevant period—

(a) in the case of a vehicle licence, was applicable to a vehicle of the description specified in the application, or

(b) in the case of a trade licence, was applicable to a vehicle falling within paragraph [F161] of Schedule 1 (or to a vehicle falling within sub-paragraph (1)

(c) of paragraph 2 of that Schedule if the licence was to be used only for vehicles to which that paragraph applies).

(4) For the purposes of this section the relevant period is the period—

(a) beginning with the first day of the period for which the licence was applied for or, if later, the day on which the licence first was to have effect, and

(b) ending with whichever is the earliest of—

(i) the end of the month in which the order is made,

(ii) the date on which the licence was due to expire,

(iii) the end of the month during which the licence was delivered up, and

(iv) the end of the month preceding that in which there first had effect a new licence for the vehicle specified in the application for the licence or (in the case of a trade licence) a new trade licence to be used for the same description of vehicles.

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- (5) Where a person has previously been ordered under section 30 to pay an amount for a month or part of a month in the case of a vehicle, any amount which he is ordered to pay under this section in the case of a vehicle licence for the vehicle is to be calculated as if no part of that month were in the relevant period.

Textual Amendments

- F15** Words in s. 36(1) substituted (1.5.1995 with effect as mentioned in Sch. 4 para. 32(4) of the amending Act) by 1995 c. 4, s. 19, Sch. 4 Pt. V para. 32(3)(4)
- F16** Words in s. 36(3)(b) substituted (29.4.1996 with effect as mentioned in s. 18(5) of the amending Act) by 1996 c. 8, s. 18(4)(c)(5)

Offence of not paying duty chargeable at higher rate

37 Penalty for not paying duty chargeable at higher rate.

- (1) Where—
- a vehicle licence has been taken out for a vehicle at any rate of vehicle excise duty,
 - at any time while the licence is in force the vehicle is so used that duty at a higher rate becomes chargeable in respect of the licence for the vehicle under section 15, and
 - duty at that higher rate was not paid before the vehicle was so used, the person so using the vehicle is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction^{F17} . . . to an excise penalty of—
- level 3 on the standard scale^{F17} . . . , or
 - five times the difference between the duty actually paid on the licence and the amount of the duty at the higher rate,
- whichever is the greater.

Textual Amendments

- F17** Words in s. 37(2) repealed (1.5.1995 with effect as mentioned in Sch. 4 para. 37(3) and Sch. 29 Pt.V(3) Note 2 of the amending Act) by 1995 c. 4, ss. 19, 162, Sch. 4 Pt. VII para. 37(1)(3), Sch. 29 Pt.V(3) Note 2

38 Additional liability for keeper of vehicle chargeable at higher rate.

- (1) Where the person convicted of an offence under section 37 is the person by whom the vehicle in respect of which the offence was committed was kept at the time at which it was committed, the court shall (in addition to any penalty which it may impose under that section) order him to pay the amount specified in subsection (2).
- (2) The amount referred to in subsection (1) is an amount equal to one-twelfth of the difference between—
- the rate of duty at which the licence in relation to which the offence was committed was taken out, and

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- (b) the relevant higher rate of duty (within the meaning of section 39) in relation to the vehicle,
for each month, or part of a month, in the relevant period (within the meaning of section 40).
- (3) A vehicle is to be taken for the purposes of subsection (2) to have belonged throughout the relevant period to the description of vehicle to which it belonged for the purposes of vehicle excise duty at the date on which the offence was committed, except so far as it is proved to have fallen within some other description for the whole of any month or part of a month in that period.
- (4) Where a person is convicted of more than one offence under section 37 in respect of the same vehicle (whether or not in the same proceedings), the court shall (in calculating the amount payable under this section in respect of any of the offences) reduce the amount in relation to any period by any amount ordered to be paid under this section in relation to the period in respect of any other such offence.

39 Relevant higher rate of duty for purposes of section 38.

- (1) For the purposes of section 38 the relevant higher rate of duty in relation to a vehicle is the rate provided by this section.
- (2) Where—
 - (a) at the time of the offence the vehicle had a [^{F18}revenue weight] which exceeded that which it had when the licence in relation to which the offence was committed was taken out, and
 - (b) the licence was taken out at the rate applicable to the previous weight,
the relevant higher rate of duty is the rate which would have been applicable had the licence been taken out by reference to the higher weight.
- (3) Where—
 - (a) the vehicle is a tractive unit,
 - (b) the licence in relation to which the offence was committed was taken out at a rate applicable to the use of the vehicle—
 - (i) only with semi-trailers having not fewer than two axles, or
 - (ii) only with semi-trailers having not fewer than three axles, and
 - (c) the offence consisted in using the vehicle with a semi-trailer with a smaller number of axles,
the relevant higher rate of duty is the rate which would have been applicable had the licence been taken out by reference to the use of the vehicle which constituted the offence.
- (4) Where—
 - (a) the licence in relation to which the offence was committed was taken out at a rate applicable, by virtue of paragraph 13 of Schedule 1, to a weight lower than the [^{F19}revenue weight] of the vehicle, and
 - (b) the offence consisted in using the vehicle in contravention of a condition imposed under or by virtue of sub-paragraph (2) of that paragraph,
the relevant higher rate of duty is the rate which would have been applicable had the licence been taken out by reference to the [^{F20}revenue weight] of the vehicle.
- (5) Where—

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- (a) the licence in relation to which the offence was committed was taken out at a rate lower than that applicable to it by reference to its [^{F21}revenue weight], and
 - (b) none of subsections (2) to (4) apply,
- the relevant higher rate of duty is the rate which would have been applicable had the licence been taken out by reference to the [^{F22}revenue weight] of the vehicle.
- (6) Where—
- (a) the licence in relation to which the offence was committed was taken out at a rate lower than that at which duty was chargeable in respect of the condition, manner or purpose of use of the vehicle which constituted the offence, and
 - (b) none of subsections (2) to (5) apply,
- the relevant higher rate of duty is the rate which would have been applicable had the licence been taken out by reference to the condition, manner or purpose of use of the vehicle which constituted the offence.

Textual Amendments

- F18** Words in s. 39(2)(a) substituted (1.5.1995 with effect as mentioned in Sch. 4 para. 29 of the amending Act) by 1995 c. 4, s. 19, Sch. 4 Pt. IV paras. 22(a), **29**
- F19** Words in s. 39(4)(a) substituted (1.5.1995 with effect as mentioned in Sch. 4 para. 29 of the amending Act) by 1995 c. 4, s. 19, Sch. 4 Pt. IV paras. 22(b), **29**
- F20** Words after para. (b) in s. 39(4) substituted (1.5.1995 with effect as mentioned in Sch. 4 para. 29 of the amending Act) by 1995 c. 4, s. 19, Sch. 4 Pt. IV paras. 22(c), **29**
- F21** Words in s. 39(5)(a) substituted (1.5.1995 with effect as mentioned in Sch. 4 para. 29 of the amending Act) by 1995 c. 4, s. 19, Sch. 4 Pt. IV paras. 22(b), **29**
- F22** Words after para. (b) in s. 39(5) substituted (1.5.1995 with effect as mentioned in Sch. 4 para. 29 of the amending Act) by 1995 c. 4, s. 19, Sch. 4 Pt. IV paras. 22(c), **29**

40 Relevant period for purposes of section 38.

- (1) For the purposes of section 38 the relevant period is the period—
- (a) ending with the date on which the offence was committed, and
 - (b) beginning as provided by subsection (2) or (3).
- (2) If the offence consists in the vehicle having a [^{F23}revenue weight] which exceeds that which it had when the licence in relation to which the offence was committed was taken out, the relevant period begins with the date on which the vehicle [^{F24}became a vehicle with a higher revenue weight].
- (3) In any other case, the relevant period begins with the date on which the licence in relation to which the offence was committed first took effect.
- (4) Where the person convicted proves—
- (a) that throughout any month or part of a month in the relevant period the vehicle was not kept by him, or
 - (b) that he has paid the duty due (or an amount equal to the duty due) at the relevant higher rate in respect of the vehicle for any such month or part of a month,
- any amount which the person is ordered to pay under section 38 is to be calculated as if that month or part of a month were not in the relevant period.

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Textual Amendments

- F23** Words in s. 40(2) substituted (1.5.1995 with effect as mentioned in Sch. 4 para. 29 of the amending Act) by 1995 c. 4, s. 19, Sch. 4 Pt. IV paras. 23(a), 29
- F24** Words in s. 40(2) substituted (1.5.1995 with effect as mentioned in Sch. 4 para. 29 of the amending Act) by 1995 c. 4, s. 19, Sch. 4 Pt. IV paras. 23(b), 29

41 Sections 37 to 40: supplementary.

- (1) Where in the case of an offence under section 37 there is made against a person—
- (a) an order under section 1A of the ^{M5}Powers of Criminal Courts Act 1973 discharging him absolutely or conditionally,
 - [^{F25}(b) or an order under section 228 of the Criminal Procedure (Scotland) Act 1995 placing him on probation or under 246(2) or (3) of that Act discharging him absolutely, or]
 - (c) an order under the ^{M6}Probation Act (Northern Ireland) 1950 discharging him absolutely or conditionally or placing him on probation,
- he is to be treated for the purposes of sections 38 to 40 as having been convicted.
- (2) Section 38 has effect subject to the provisions (applying with the necessary modifications) of any enactment relating to the imposition of fines by magistrates' courts and courts of summary jurisdiction, other than any conferring a discretion as to their amount.
- (3) Where a sum is payable by virtue of an order under section 38—
- (a) in England and Wales, the sum is to be treated as a fine, and the order as a conviction, for the purposes of Part III of the ^{M7}Magistrates' Courts Act 1980 (including any enactment having effect as if contained in that Part) and of any other enactment relating to the recovery or application of sums ordered to be paid by magistrates' courts,
 - (b) in Scotland, the sum is to be treated as a fine, and the order as a conviction, for the purposes of any enactment relating to the recovery or application of sums ordered to be paid by courts of summary jurisdiction, and
 - (c) in Northern Ireland, the sum is recoverable as a sum adjudged to be paid by a conviction and is to be treated for all purposes as a fine within the meaning of section 20 of the ^{M8}Administration of Justice Act (Northern Ireland) 1954.

Textual Amendments

- F25** S. 41(1)(b) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 90(3)

Marginal Citations

- M5** 1973 c. 62.
M6 1950 c. 7 (N.I.).
M7 1980 c. 43.
M8 1954 c. 9 (N.I.).

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Offences relating to registration marks

42 Not fixing registration mark.

- (1) If a registration mark is not fixed on a vehicle as required by virtue of section 23, the relevant person is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In subsection (1) “the relevant person” means the person driving the vehicle or, where it is not being driven, the person keeping it.
- (4) It is a defence for a person charged with an offence under subsection (1) to prove that—
 - (a) he had no reasonable opportunity to register the vehicle under this Act, and
 - (b) the vehicle was being driven for the purpose of being so registered.
- (5) It is a defence for a person charged with an offence under subsection (1) in relation to a vehicle—
 - (a) to which section 47 of the ^{M9}Road Traffic Act 1988 applies by virtue of subsection (2)(b) of that section, or
 - (b) to which [^{F26}Article 63 of the Road Traffic (Northern Ireland) Order 1995] applies by virtue of paragraph (2)(b) of that Article,

(vehicles manufactured before the prescribed period and used before registration) to prove that he had no reasonable opportunity to register the vehicle under this Act and that the vehicle was being driven in accordance with subsection (6).
- (6) A vehicle is being driven in accordance with this subsection if—
 - (a) it is being driven for the purposes of, or in connection with, its examination under section 45 of the ^{M10}Road Traffic Act 1988 in circumstances in which its use is exempted from subsection (1) of section 47 of that Act by regulations under subsection (6) of that section, or
 - [^{F27}(b) it is being driven for the purposes of, or in connection with, its examination under Article 61 of the ^{M11}Road Traffic (Northern Ireland) Order 1995 in circumstances in which its use is exempted from paragraph (1) of Article 63 of that Order by regulations under paragraph (6) of that Article.]

Textual Amendments

F26 Words in s. 42(5)(b) substituted (29.4.1996) by 1996 c. 8, s. 22(1)

F27 S. 42(6)(b) substituted (29.4.1996) by 1996 c. 8, s. 22(2)

Marginal Citations

M9 1988 c. 52.

M10 1988 c. 52.

M11 S.I. 1995/2994 (N.I. 18).

43 Obscured registration mark.

- (1) If a registration mark fixed on a vehicle as required by virtue of section 23 is in any way—
 - (a) obscured, or

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- (b) rendered, or allowed to become, not easily distinguishable, the relevant person is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In subsection (1) “the relevant person” means the person driving the vehicle or, where it is not being driven, the person keeping it.
- (4) It is a defence for a person charged with an offence under this section to prove that he took all steps which it was reasonably practicable to take to prevent the mark being obscured or rendered not easily distinguishable.

Other offences

[^{F28} 43A Failure to have nil licence for exempt vehicle.

- (1) A person is guilty of an offence if—
- he uses, or keeps, on a public road an exempt vehicle,
 - that vehicle is one in respect of which regulations under this Act require a nil licence to be in force, and
 - a nil licence is not for the time being in force in respect of the vehicle.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) Subsection (1) has effect subject to the provisions of regulations made by the Secretary of State.
- (4) The Secretary of State may, if he thinks fit, compound any proceedings for an offence under this section.]

Textual Amendments

F28 S. 43A inserted (1.4.1998) by 1997 c. 16, s. 18, Sch. 3 para. 5; S.I. 1998/560, art. 2

VALID FROM 17/09/2002

[^{F29} 43B Vehicle identity checks: impersonation of authorised examiners

- (1) A person is guilty of an offence if, with intent to deceive, he falsely represents himself to be a person entitled under regulations made by virtue of section 22A(2) to carry out examinations of vehicles in accordance with regulations so made.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

Textual Amendments

F29 S. 43B inserted (17.9.2002) by 2001 c. 3, ss. 43, 44, Sch. para. 5; S.I. 2002/2377, art. 2

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44 Forgery and fraud.

- (1) A person is guilty of an offence if he forges, fraudulently alters, fraudulently uses, fraudulently lends or fraudulently allows to be used by another person anything to which subsection (2) applies.
- (2) This subsection applies to—
 - (a) a vehicle licence,
 - (b) a trade licence,
 - ^{F30}(c) a nil licence,]
 - (d) a registration mark,
 - (e) a registration document, and
 - (f) a trade plate (including a replacement trade plate).
- (3) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or (except in Scotland) to both.

Textual Amendments

F30 S. 44(2)(c) substituted (1.4.1998) by 1997 c. 16, s. 18, **Sch. 3 para. 6**; S.I. 1998/560, **art. 2**

45 False or misleading declarations and information.

- (1) A person who in connection with—
 - (a) an application for a vehicle licence or a trade licence,
 - (b) a claim for a rebate under section 20, or
 - (c) an application for an allocation of registration marks,
 makes a declaration which to his knowledge is either false or in any material respect misleading is guilty of an offence.
- (2) A person who makes a declaration which—
 - (a) is required by regulations under this Act to be made in respect of a vehicle which is an exempt vehicle under paragraph 19 of Schedule 2, and
 - (b) to his knowledge is either false or in any material respect misleading,
 is guilty of an offence.
- ^{F31}(2A) A person who makes a declaration or statement which—
 - (a) is required to be made in respect of a vehicle by regulations under section 22, and
 - (b) to his knowledge is either false or in any material respect misleading,
 is guilty of an offence.]
- (3) A person who—
 - (a) is required by ^{F32}virtue of] this Act to furnish particulars relating to, or to the keeper of, a vehicle, and
 - (b) furnishes particulars which to his knowledge are either false or in any material respect misleading,
 is guilty of an offence.

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- [^{F33}(3A) A person who, in supplying information or producing documents for the purposes of any regulations made under section 61A—
- (a) makes a statement which to his knowledge is false or in any material respect misleading or recklessly makes a statement which is false or in any material respect misleading, or
 - (b) produces or otherwise makes use of a document which to his knowledge is false or in any material respect misleading,
- is guilty of an offence.
- ^{F33}(3B) A person who—
- (a) with intent to deceive, forges, alters or uses a certificate issued by virtue of section 61A;
 - (b) knowing or believing that it will be used for deception lends such a certificate to another or allows another to alter or use it; or
 - (c) without reasonable excuse makes or has in his possession any document so closely resembling such a certificate as to be calculated to deceive,
- is guilty of an offence.]
- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or (except in Scotland) to both.

Textual Amendments

F31 S. 45(2A) inserted (29.4.1996) by 1996 c. 8, s. 23, **Sch. 2 para. 11(1)(2)**

F32 Words in s. 45(3) inserted (29.4.1996) by 1996 c. 8, s. 23, **Sch. 2 para. 11(1)(3)**

F33 S. 45(3A)(3B) inserted (1.5.1995 with effect as mentioned in **Sch. 4 para. 29** of the amending Act) by 1995 c. 4, s. 19, **Sch. 4 Pt. IV paras. 24, 29**

46 Duty to give information.

- (1) Where it is alleged that a vehicle has been used on a road in contravention of section 29, 34 [^{F34}, 37 or 43A]—
- (a) the person keeping the vehicle shall give such information as he may be required to give in accordance with subsection (7) as to the identity of the driver of the vehicle or any person who used the vehicle, and
 - (b) any other person shall give such information as it is in his power to give and which may lead to the identification of the driver of the vehicle or any person who used the vehicle if he is required to do so in accordance with subsection (7).
- (2) Where it is alleged that a vehicle has been kept on a road in contravention of section 29 [^{F35} or 43A]—
- (a) the person keeping the vehicle shall give such information as he may be required to give in accordance with subsection (7) as to the identity of the person who kept the vehicle on the road, and
 - (b) any other person shall give such information as it is in his power to give and which may lead to the identification of the person who kept the vehicle on the road if he is required to do so in accordance with subsection (7).

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- (3) Where it is alleged that a vehicle has at any time been used on a road in contravention of section 29 [^{F35}or 43A], the person who is alleged to have so used the vehicle shall give such information as it is in his power to give as to the identity of the person who was keeping the vehicle at that time if he is required to do so in accordance with subsection (7).
- (4) A person who fails to comply with subsection (1), (2) or (3) is guilty of an offence.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) If a person is charged with an offence under subsection (4) consisting of failing to comply with subsection (1)(a) or (2)(a), it is a defence for him to show to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, the identity of the person or persons concerned.
- (7) A person is required to give information in accordance with this subsection if he is required to give the information by or on behalf of—
 - (a) a chief officer of police or, in Northern Ireland, the Chief Constable of the Royal Ulster Constabulary, or
 - (b) the Secretary of State.

Textual Amendments

- F34** Words in s. 46(1) substituted (1.4.1998) by 1997 c. 16, s. 18, **Sch. 3 para. 7(1)(a)**; S.I. 1998/560, **art. 2**
- F35** Words in s. 46(2)(3) inserted (1.4.1998) by 1997 c. 16, s. 18, **Sch. 3 para. 7(1)(b)**; S.I. 1998/560, **art. 2**

[^{F36}46A Duty to give information: offences under regulations.

- (1) Subsection (2) applies where it appears to the Secretary of State—
 - (a) that a person is a person by, through or to whom a vehicle has been sold or disposed of and that he has failed to comply with regulations made by virtue of section 22(1)(d) requiring him to furnish particulars prescribed by the regulations;
 - (b) that a person is a person by or through whom a vehicle has been sold or disposed of and that he has failed to comply with regulations made by virtue of section 22(1)(dd) requiring him to furnish a document prescribed by the regulations; or
 - (c) that a person is a person who is surrendering a vehicle licence, or who is not renewing a vehicle licence for a vehicle kept by him or who is keeping an unlicensed vehicle and that he has failed to comply with regulations made by virtue of section 22(1D) requiring him to furnish particulars or make a declaration prescribed by the regulations.
- (2) The Secretary of State may serve a notice on the person in question requiring him to give the Secretary of State such information as it is in his power to give—
 - (a) as to the identity of any person who is keeping a specified vehicle or who has kept it at a specified time or during a specified period;
 - (b) as to the identity of any person by, through or to whom a specified vehicle has been sold or disposed of at a specified time or during a specified period; or

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- (c) which may lead to the identification of a person falling within paragraph (a) or (b).
- (3) A person who fails to comply with a notice under subsection (2) is guilty of an offence.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) In this section “specified” means specified in a notice under subsection (2).]

Textual Amendments

F36 S. 46A inserted (29.4.1996) by 1996 c. 8, s. 23, **Sch. 2 para. 12**

VALID FROM 01/07/2005

[^{F37}Offence in respect of incorrectly registered vehicles]

Textual Amendments

F37 S. 43C and preceding cross heading inserted (1.7.2005) by **Serious Organised Crime and Police Act 2005 (c. 15), s. 150(1)**; S.I. 2005/1521, **art. 3(1)(u)** (subject to **art. 3(4)(5)**)

[^{F38}43C Offence of using an incorrectly registered vehicle

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

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- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) The Secretary of State may make regulations prescribing, varying or revoking exceptions for the purposes of subsection (4)(b).
- (7) In this section—
- “keeper”, in relation to a vehicle, means the person by whom it is kept at the material time;
- “the register” means the register kept by the Secretary of State under Part 2.]

Textual Amendments

- F38** S. 43C and preceding cross heading inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [s. 150\(1\)](#); S.I. 2005/1521, [art. 3\(1\)\(u\)](#) (subject to [art. 3\(4\)\(5\)](#))

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