



Vehicles (Excise) Act 1971 (Repealed 1.9.1994)

1971 CHAPTER 10

Legal proceedings etc.

28 Institution and conduct of proceedings in England and Wales.

- (1) Subject to the provisions of this section, summary proceedings for an offence under section 8, ^{F1} . . . 16(7) [^{F2} or 18(4)] of this Act or under regulations made in pursuance of this Act may be instituted in England and Wales by the Secretary of State or a constable (in this section severally referred to as “the authorised prosecutor”) at any time within six months from the date on which evidence sufficient in the opinion of the authorised prosecutor to warrant the proceedings came to his knowledge; but no proceedings for any offence shall be instituted by virtue of this subsection more than three years after the commission of the offence.
- (2) No proceedings for an offence under section 8, 16(7) or 18(4) of this Act shall be instituted in England and Wales except by the authorised prosecutor; and no proceedings for such an offence shall be so instituted by a constable except with the approval of the Secretary of State.
- (3) A certificate stating—
 - (a) the date on which such evidence as is mentioned in subsection (1) above came to the knowledge of the authorised prosecutor; or
 - (b) that the Secretary of State’s approval is given for the institution by a constable of any proceedings specified in the certificate,

and signed by or on behalf of the authorised prosecutor, or as the case may be, the Secretary of State shall for the purposes of this section be conclusive evidence of the date or approval in question; and a certificate purporting to be given in pursuance of this subsection and to be signed as aforesaid shall be deemed to be so signed unless the contrary is proved.

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Changes to legislation: There are currently no known outstanding effects for the Vehicles (Excise) Act 1971 (Repealed 1.9.1994), Cross Heading: Legal proceedings etc.. (See end of Document for details)

- (4) In a magistrates' court or before the registrar of a county court any proceedings by or against the Secretary of State under this Act may be conducted on behalf of the Secretary of State by a person authorised by him for the purposes of this subsection.
- (5) [^{F3}Section 145 of the ^{M1}Customs and Excise Management Act 1979] (which restricts the bringing of proceedings under that Act) and [^{F4}section 146A] of that Act (which extends the time for bringing such proceedings) shall not apply to proceedings in England or Wales for offences under this Act.

Textual Amendments

- F1** Words in s. 28(1) repealed (3.5.1994) by 1994 c. 9, s. 258, **Sch. 26 Pt. I(3)**
- F2** Words in s. 28(1) substituted (3.5.1994) by 1994 c. 9, s. 5, **Sch. 2 para. 14**
- F3** Words substituted by Customs and Excise Management Act 1979 (c. 2), **Sch. 4 para. 12**
- F4** Words substituted by Finance Act 1989 (c. 26, SIF 40:1), s. 16(3)(4)

Marginal Citations

- M1** 1979 c. 2.

[^{F5}28A Institution of proceedings in Northern Ireland.

Section 28 of this Act shall also apply in relation to the institution of proceedings in Northern Ireland, but as if—

- (a) for any reference in that section to England and Wales there were substituted a reference to Northern Ireland; and
- (b) in subsection (4) of that section for the words from the beginning to “county court” there were substituted “In a court of summary jurisdiction or before a county court”.]

Textual Amendments

- F5** S. 28A inserted (1.10.1991) by Finance Act 1991 (c. 31, SIF 107:2), s. 10, **Sch. 3 Pt. I para. 13**; S.I. 1991/2021, **art. 2**

29 Institution and conduct of proceedings in Scotland.

- (1) Subject to the provisions of this section, summary proceedings for an offence under this Act except under section 26(1) or (2) thereof may be instituted in Scotland by the Secretary of State.
- (2) Notwithstanding the provisions of any enactment, the Secretary of State may institute proceedings by virtue of subsection (1) above in any court of summary jurisdiction in Scotland.
- (3) Any proceedings in any court in Scotland, other than the High Court of Justiciary or the Court of Session, by or against the Secretary of State under this Act may be conducted on behalf of the Secretary of State by any person authorised by him for the purposes of this subsection.
- (4) Summary proceedings in Scotland in respect of an offence under section 8, ^{F6} . . . 16(7), 18(4) or 26(1) or (2) of this Act or under regulations made in pursuance of this Act

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shall not be commenced more than three years after the commission of the offence, but subject to the foregoing limitation and notwithstanding anything in [F7 section 331 of the M2 Criminal Procedure (Scotland) Act 1975] (limitation of time for proceedings in statutory offences) any such proceedings may be commenced—

- (a) in the case of proceedings instituted by the procurator fiscal as a result of information supplied to him by the Secretary of State, at any time within six months from the date on which such information came to the knowledge of the Secretary of State;
- (b) in any other case, at any time within six months from the date on which evidence sufficient in the opinion of the person instituting the proceedings to justify proceedings came to his knowledge,

and subsection (2) of the said section 23 shall apply for the purposes of this subsection as it applies for the purposes of that section.

(5) For the purposes of subsection (4) above a certificate signed—

- (a) in the case of any such proceedings as are mentioned in paragraph (a) of that subsection, by or on behalf of the Secretary of State;
- (b) in any other case, by or on behalf of the person instituting the proceedings,

and stating the date on which such information or, as the case may be, such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be signed by or on behalf of the Secretary of State or that person shall be deemed to be so signed unless the contrary is proved.

Textual Amendments

F6 Words in s. 29(4) repealed (3.5.1994) by 1994 c. 9, s. 258, Sch. 26 Pt. I(3)

F7 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. 460(7)

Marginal Citations

M2 1975 c. 21.

30 Limitation on the bringing of proceedings for recovery of underpayments and overpayments of duty.

- (1) Where the amount of the duty which has been paid on a vehicle licence for a vehicle is less than the amount payable on the licence appropriate to that vehicle, the Secretary of State may take proceedings for the recovery of that amount at any time before the expiration of the twelve months beginning with the end of the period in respect of which the licence was taken out.
- (2) No proceedings shall be brought for enforcing any repayment of duty to which a person may be entitled in respect of any overpayment of duty made on a vehicle licence taken out by him, unless the proceedings are brought before the expiration of the twelve months beginning with the end of the period in respect of which the licence was taken out.

31 Admissibility of records as evidence.

- (1) A statement contained in a document purporting to be—

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- (a) a part of the records maintained by the Secretary of State in connection with any functions exercisable by the Secretary of State by virtue of this Act; or
 - (b) a copy of a document forming part of those records; or
 - (c) a note of any information contained in those records,
- and to be authenticated by a person authorised in that behalf by the Secretary of State shall be admissible in any proceedings as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.
- (2) In subsection (1) above “document” and “statement” have the same meanings as in subsection (1) of section 10 of the ^{M3}Civil Evidence Act 1968, and the reference to a copy of a document shall be construed in accordance with subsection (2) of that section; but nothing in this subsection shall be construed as limiting to civil proceedings the references to proceedings in subsection (1) above.
- (3) Nothing in the foregoing provisions of this section shall enable evidence to be given with respect to any matter other than a matter of the prescribed description.
- (4) In its application to Scotland this section shall have effect as if—
- (a) in subsection (1), for the words from “as evidence” onwards there were substituted the words “as sufficient evidence of any fact stated therein, so however that nothing in this subsection shall be deemed to make such a statement evidence in any proceedings except where oral evidence to the like effect would have been admissible in those proceedings”; and
 - (b) in subsection (2), for the references to subsections (1) and (2) of section 10 of the ^{M4}Civil Evidence Act 1968 there were substituted references to subsections (3) and (4) respectively of section 17 of the ^{M5}Law Reform (Miscellaneous Provisions) (Scotland) Act 1968.
- [^{F8}(5) In its application to Northern Ireland, this section shall have effect as if in subsection (2) for “subsection (1) of section 10 of the Civil Evidence Act 1968” there were substituted “subsection (1) of section 6 of the Civil Evidence Act (Northern Ireland) 1971”.]

Textual Amendments

F8 S. 31(5) added (1.10.1991) by [Finance Act 1991 \(c. 31, SIF 107:2\)](#), s. 10, **Sch. 3**, Pt. I, para.14 ; S.I. 1991/2021, **art. 2**

Marginal Citations

M3 1968 c. 64.
M4 1968 c. 64.
M5 1968 c. 70.

32 Evidence of admissions in certain proceedings.

- [^{F9}(1)] Where in any proceedings in England and Wales for an offence under section 8 or section 16(7) of this Act—
- (a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules made under section 15 of the Justices of the ^{M6}Peace Act 1949, that a requirement under section 27(1)(a) or (b) of this Act to give information as to the identity of the driver of, or the person using or keeping, a particular

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vehicle on the particular occasion on which the offence is alleged to have been committed has been served on the accused by post; and

- (b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of, or the person using or keeping, that vehicle on that occasion,

the court may accept the statement as evidence that the accused was the driver of, or the person using or keeping, that vehicle on that occasion.

[^{F10}(2) Subsection (1) above shall apply in Northern Ireland as if—

- (a) for the words “England and Wales” there were substituted “Northern Ireland”; and
(b) for the words from “rules” to “1949” there were substituted “magistrates’ courts rules as defined in Article 2(3) of the Magistrates’ Courts (Northern Ireland) Order 1981”.]

Textual Amendments

F9 S. 32 renumbered (1.10.1991) (as 32(1)) by Finance Act 1991 (c. 31, SIF 107:2), s. 10, Sch. 3, Pt. I, para.15 ; S.I. 1991/2021, art.2

F10 S. 32(2) added (1.10.1991) by Finance Act 1991 (c. 31, SIF 107:2), s. 10, Sch. 3, Pt. I, para.15 ; S.I. 1991/2021, art. 2

Marginal Citations

M6 1949 c. 101.

33 Burden of proof in certain proceedings.

If in any proceedings under section 8, 16(7) [^{F11}, 18(4)] or 26(2) of this Act any question arises—

- (a) as to the number of mechanically propelled vehicles used, or
(b) as to the character, weight, horse-power or cylinder capacity of any mechanically propelled vehicle, or
(c) as to the number of persons for which a mechanically propelled vehicle has seating capacity, or
(d) as to the purpose for which any mechanically propelled vehicle has been used, the burden of proof in respect of the matter in question shall lie on the defendant.

Textual Amendments

F11 Words in s. 33 inserted (3.5.1994) by 1994 c. 9, s. 5, Sch. 2 para. 15

34 Fixing of amount payable under s. 9 on plea of guilty by absent accused.

[^{F12}(1)] Where in pursuance of [^{F13}section 12(2) of the ^{M7}Magistrates’ Courts Act 1980] a person is convicted in his absence of an offence under section 8 of this Act [^{F14}, or under section 102 of the Customs and Excise Management Act ^{M8}1979 in relation to a licence issued under this Act,] and it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules made under [^{F13}section 144 of the Magistrates’ Courts Act 1980], that there was served on the accused with the summons a notice

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stating that, in the event of his being convicted of the offence, it will be alleged that an order requiring him to pay an amount specified in the notice falls to be made by the court in pursuance of section 9(1) [^{F15}or, as the case may be, 26A(1)] of this Act then, unless in the notification purporting to be given by or on behalf of the accused in pursuance of [^{F13}the said section 12(2)] it is stated that the amount so specified is inappropriate, the court shall proceed in pursuance of the said section 9(1) [^{F15}or, as the case may be, 26A(1)] as if that amount had been calculated as required by that subsection.

[^{F16}(2) In its application to Northern Ireland, subsection (1) above shall have effect as if—

- (a) for “section 12(2) of the Magistrates’ Courts Act 1980” and “the said section 12(2)” there were substituted “Article 24(2) of the Magistrates’ Courts (Northern Ireland) Order 1981” and “the said Article 24(2)” respectively; and
- (b) for the words from “or in” to “1980” there were substituted “or by affidavit or in the manner prescribed by magistrates’ courts rules as defined by Article 2(3) of the Magistrates’ Courts (Northern Ireland) Order 1981”.]

Textual Amendments

- F12** S. 34 renumbered (1.10.1991) (as 34(1)) by Finance Act 1991 (c. 31, SIF 107:2), s. 10, **Sch. 3, Pt. I, para.16** ; S.I. 1991/2021, **art. 2**
- F13** Words substituted by Magistrates' Courts Act 1980 (c. 43), **Sch. 7 para. 93**
- F14** Words inserted by Finance Act 1989 (c. 26, SIF 40:1), **s. 14(5)(a)(7)**
- F15** Words inserted by Finance Act 1989 (c. 26, SIF 40:1), **s. 14(5)(b)(7)**
- F16** S. 34(2) added (1.10.1991) by Finance Act 1991 (c. 31, SIF 107:2), s. 10, **Sch. 3, Pt. I, para.16** ; S.I. 1991/2021, **art.2**

Marginal Citations

- M7** 1980 c. 43.
- M8** 1979 c.2 (40:1).

35 Application of fines, penalties and forfeitures.

- (1) ^{F17}
- (2) All fines imposed and penalties ^{F18} . . . recovered under or in pursuance of this Act in England and Wales otherwise than by or before a magistrates’ court, and all fines imposed, and penalties ^{F18} . . . recovered, under or in pursuance of this Act in Scotland [^{F19}or Northern Ireland], shall be paid into the Consolidated Fund.
- (3) [^{F20}Section 151 of the ^{M9}Customs and Excise Management Act 1979] (which relates to the application of penalties) shall not apply to penalties recovered under or in pursuance of this Act.

Textual Amendments

- F17** S. 35(1) repealed by Criminal Justice Act 1972 (c. 71), **Sch. 6 Pt. II**
- F18** Words in s. 35(2) repealed (3.5.1994) by 1994 c. 9, s. 258, **Sch. 26 Pt. I(3)**
- F19** Words in s. 35(2) inserted (1.10.1991) by Finance Act 1991 (c. 31, SIF 107:2), s. 10, **Sch. 3, Pt. I, para. 17** ; S.I. 1991/2021, **art. 2**
- F20** Words substituted by Customs and Excise Management Act 1979 (c. 2), **Sch. 4 para. 12**

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M9 1979 c. 2.

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