



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART III

FIXED PENALTIES

Miscellaneous

82 Accounting for fixed penalties: England and Wales.

- (1) In England and Wales, sums paid by way of fixed penalty for an offence shall be treated for the purposes of section 61 (application of fines and fees) of the ^{M1}Justices of the Peace Act 1979 as if they were fines imposed on summary conviction for that offence.
- [^{F1}(2) Where, in England and Wales, a justices' clerk for a petty sessions area comprised in the area of one magistrates' courts committee ("the first committee") discharges functions in connection with a fixed penalty for an offence alleged to have been committed in a petty sessions area comprised in the area of another magistrates' courts committee ("the second committee")—
- (a) the paying authority or authorities in relation to the second committee must make to the paying authority or authorities in relation to the first committee such payment in connection with the discharge of those functions as may be agreed between all the paying authorities concerned or, in default of such agreement, as may be determined by the Lord Chancellor, and
 - (b) any such payment between paying authorities shall be taken into account in determining for the purposes of section 59 of the ^{M2}Justices of the Peace Act 1979 the net cost to the responsible authorities of the functions referred to in subsection (1) of that section.
- (2A) In subsection (2) above "paying authority" and "responsible authority" have the same meaning as in section 55 of the Justices of the Peace Act 1979.]
- (3) Subsection (2) above does not apply to functions discharged in connection with a fixed penalty on or after the registration of a sum determined by reference to the penalty under section 71 of this Act.

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Textual Amendments

F1 S. 82(2) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. II**, para 32; S.I. 1995/685, **arts. 4(1), 7(2)**

Modifications etc. (not altering text)

C1 S. 82 amended (*temp.*) (1.4.1995) by S.I. 1995/685, **reg. 6(2)(b)**

C2 S. 82(1)(2): Functions of the Secretary of State transferred to the Lord Chancellor (1.4.1992) by S.I. 1992/709, art. 2(1), **Sch. 1**

Marginal Citations

M1 1979 c. 55.

M2 1979 c. 55.

83 Powers of court where clerk deceived.

(1) This section applies where—

- (a) in endorsing [^{F2}the counterpart of] any person's licence under section 57 of this Act, the fixed penalty clerk is deceived as to whether endorsement under that section is excluded by section 61(2) of this Act by virtue of the fact that the licence holder would be liable to be disqualified under section 35 of this Act if he were convicted of the offence, or
- (b) in endorsing [^{F3}the counterpart of] any person's licence under section 77 of this Act the clerk of court specified in the conditional offer (within the meaning of that section) is deceived as to whether he is required by section 76(5) of this Act to return the licence [^{F4}and its counterpart without endorsing the counterpart] by virtue of the fact that the licence holder would be liable to be disqualified under section 35 of this Act if he were convicted of the offence.

(2) If—

- (a) the deception constituted or was due to an offence committed by the licence holder, and
- (b) the licence holder is convicted of that offence,

the court by or before which he is convicted shall have the same powers and duties as it would have had if he had also been convicted by or before it of the offence of which particulars were endorsed under section 57 or, as the case may be, 77 of this Act.

Textual Amendments

F2 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 24(a)**

F3 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2**, para. 24(b)(i)(ii)

F4 Words substituted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2**, para. 24(b)(i)(ii)

84 Regulations.

The Secretary of State may by regulations make provision as to any matter incidental to the operation of this Part of this Act, and in particular—

- (a) for prescribing any information or further information to be provided in any notice, notification, certificate or receipt under section 52(1), 54(4), 56, 59(1), 60(1), 63(2), 70(2) and (3)(b), 73(4)(b), 75(2) and (3) or 76(5) and (6) of this

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Act or in any official form for a statutory statement mentioned in Schedule 4 to, or a statement under section 66(2) of, this Act,

- (b) for requiring any such official form to be served with any notice served under section 63 or 73(4) of this Act, and
- (c) for prescribing the duties of justices' clerks or (as the case may be) clerks of courts of summary jurisdiction and the information to be supplied to them.

85 Service of documents.

- (1) Subject to any requirement of this Part of this Act with respect to the manner in which a person may be provided with any such document, he may be provided with the following documents by post (but without prejudice to any other method of providing him with them), that is to say—
 - (a) any of the statutory statements mentioned in Schedule 4 to this Act, and
 - (b) any of the documents mentioned in section 66(2) of this Act.
- (2) Where a notice requesting a hearing in respect of an offence is permitted by a fixed penalty notice or notice to owner relating to that offence to be given by post, section 7 of the ^{M3}Interpretation Act 1978 (service of documents by post) shall apply as if that notice were permitted to be so given by this Act.
- (3) A notice to owner may be served on any person—
 - (a) by delivering it to him or by leaving it at his proper address, or
 - (b) by sending it to him by post,and where the person on whom such a notice is to be served is a body corporate it is duly served if it is served on the secretary or clerk of that body.
- (4) For the purposes of this Part of this Act and of section 7 of the ^{M4}Interpretation Act 1978 as it applies for the purposes of subsection (3) above the proper address of any person in relation to the service on him of a notice to owner is—
 - (a) in the case of the secretary or clerk of a body corporate, that of the registered or principal office of that body or the registered address of the person who is or was the registered keeper of the vehicle concerned at the time of service, and
 - (b) in any other case, his last known address at the time of service.
- (5) In subsection (4) above, “registered address”, in relation to the registered keeper of a vehicle, means the address recorded in the record kept under [^{F5}the Vehicle Excise and Registration Act 1994] with respect to that vehicle as being that person's address.

Textual Amendments

F5 Words in s. 85(5) substituted (1.9.1994) by 1994 c. 22, s. 63, **Sch. 3 para. 25(1)** (with s. 57(4))

Marginal Citations

M3 1978 c. 30.

M4 1978 c. 30.

86 Functions of traffic wardens.

- (1) An order under section 95(5) of the ^{M5}Road Traffic Regulation Act 1984 may not authorise the employment of a traffic warden to discharge any function under this Part

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of this Act in respect of an offence if the offence appears to the traffic warden to be an offence involving obligatory endorsement [^{F6}unless that offence was committed whilst the vehicle concerned was stationary.].

- (2) In so far as an order under that section authorises the employment of traffic wardens for the purposes of this Part of this Act, references in this Part of this Act to a constable or, as the case may be, to a constable in uniform include a traffic warden.

Textual Amendments

F6 Words in s. 86(1) added (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 106**; S.I. 1991/2054, art. 3, **Sch**

Marginal Citations

M5 1984 c. 27.

87 Guidance on application of Part III.

The Secretary of State must issue guidance to chief officers of police for police areas in respect of the operation of this Part of this Act with the objective so far as possible of working towards uniformity.

88 Procedure for regulations and orders.

- (1) Any power conferred by this Part of this Act on the Secretary of State to make any order or regulations shall be exercisable by statutory instrument.
- (2) Before making—
- (a) an order under section 51, 53 or 75 of this Act, or
 - (b) regulations under section 84 of this Act,
- the Secretary of State must consult with such representative organisations as he thinks fit.
- (3) A statutory instrument containing regulations or an order under any provision of this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations under this Part of this Act may—
- (a) make different provision for different cases, and
 - (b) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the regulations.

89 Interpretation.

- (1) In this Part of this Act—
- “authorised person” has the meaning given by section 54(9) of this Act,
- [^{F7}“chief constable” means, in Scotland in relation to any conditional offer, the chief constable for the area in which the conditional offer has been issued.]
- “chief officer of police” (except in the definition of “authorised person”) means, in relation to any fixed penalty notice [^{F8}, notice to owner or

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conditional offer], the chief officer of police for the police area in which the fixed penalty offence in question is alleged to have been committed,

“court of summary jurisdiction” has the same meaning as in [F9]section 307(1) of the Criminal Procedure (Scotland) Act 1995],

“driver” except in section 62 of this Act means, in relation to an alleged fixed penalty offence, the person by whom, assuming the offence to have been committed, it was committed,

“justices’ clerk” means the clerk to the justices for a petty sessions area,

“petty sessions area” has the same meaning as in the M6Magistrates’ Courts Act 1980, and

“proceedings”, except in relation to proceedings for enforcing payment of a sum registered under section 71 of this Act, means criminal proceedings.

(2) In this Part of this Act—

- (a) references to a notice requesting a hearing in respect of an offence are references to a notice indicating that the person giving the notice wishes to contest liability for the offence or seeks a determination by a court with respect to the appropriate punishment for the offence,
- (b) references to an offence include an alleged offence, and
- (c) references to the person who is or was at any time the registered keeper of a vehicle are references to the person in whose name the vehicle is or was at that time registered under [F10]the Vehicle Excise and Registration Act 1994].

Textual Amendments

- F7 Definition in s. 89(1) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para. 107(2); S.I. 1992/1286, art. 2, Sch.
- F8 Words in s. 89(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para. 107(3); S.I. 1992/1286, art. 2, Sch.
- F9 S. 89(1): words in definition of “court of summary jurisdiction” substituted (1.4.1996) by 1995 c. 13, s. 5, Sch. 4 para. 71(10)
- F10 Words in s. 89(2)(c) substituted (1.9.1994) by 1994 c. 22, s. 63, Sch. 3 para. 25(1)

Marginal Citations

- M6 1980 c. 43.

90 Index to Part III.

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.

Authorised person	Section 54(9)
Conditional offer	[F11]Section 75(3)]
Fixed penalty	Section 53
Fixed penalty clerk	Section 69(4) [F12]and 75(4)]
Fixed penalty notice	Section 52
Fixed penalty offence	Section 51

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Notice to owner	Sections 63(2) and 66(4)
Notice requesting a hearing in respect of an offence	Section 89(2)
Offence	Section 89(2)
Official form	Section 68(4)
Owner	Section 68(1)
Period allowed for response to a notice to owner	Section 63(5)
Proper address, in relation to the service of a notice to owner	Section 85(4)
Registered keeper	Section 89(2)
Statutory statement of facts	Part II of Schedule 4
Statutory statement of hiring	Part I of Schedule 4
Statutory statement of ownership	Part I of Schedule 4
Suspended enforcement period	Section 52(3)(a)
Time of the alleged offence	Section 63(3)

Textual Amendments

- F11** Words in s. 90 substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 108(a)**; S.I. 1992/1286, **art. 2**, Sch.
- F12** Words in s. 90 added (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 108(b)**; S.I. 1992/1286, **art. 2**, Sch.

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