



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART II

SENTENCE

Fine and imprisonment

[^{F1}33A Forfeiture of vehicles: Scotland.

- (1) Where a person commits an offence to which this subsection applies by—
- (a) driving, attempting to drive, or being in charge of a vehicle; or
 - (b) failing to comply with a requirement made under section 7 of the Road Traffic Act 1988 (failure to provide specimen for analysis or laboratory test) in the course of an investigation into whether the offender had committed an offence while driving, attempting to drive or being in charge of a vehicle, or
 - (c) failing, as the driver of a vehicle, to comply with subsections (2) and (3) of section 170 of the Road Traffic Act 1988 (duty to stop and give information or report accident),

the court may, on an application under this subsection, make an order forfeiting the vehicle concerned; and any vehicle forfeited under this subsection shall be disposed of as the court may direct.

- (2) Subsection (1) above applies—
- (a) to an offence under the Road Traffic Act 1988 which is punishable with imprisonment; and
 - (b) to an offence of culpable homicide.
- (3) An application under subsection (1) above shall be at the instance of the prosecutor made when he moves for sentence (or, if the person has been remitted for sentence under section 195 of the Criminal Procedure (Scotland) Act 1995) made before sentence is pronounced.

- (4) Where—

Changes to legislation: Road Traffic Offenders Act 1988, Section 33A is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) the court is satisfied, on an application under this subsection by the prosecutor—
- (i) that proceedings have been, or are likely to be, instituted against a person in Scotland for an offence to which subsection (1) above applies allegedly committed in the manner specified in paragraph (a), (b) or (c) of that subsection; and
 - (ii) that there is reasonable cause to believe that a vehicle specified in the application is to be found in a place or in premises so specified; and
- (b) it appears to the court that there are reasonable grounds for thinking that in the event of the person being convicted of the offence an order under subsection (1) above might be made in relation to the vehicle,
- the court may grant a warrant authorising a person named therein to enter and search the place or premises and seize the vehicle.
- (5) Where the court has made an order under subsection (1) above for the forfeiture of a vehicle, the court or any justice may, if satisfied on evidence on oath—
- (a) that there is reasonable cause to believe that the vehicle is to be found in any place or premises; and
 - (b) that admission to the place or premises has been refused or that a refusal of such admission is apprehended,
- issue a warrant of search which may be executed according to law.
- (6) In relation to summary proceedings, the reference in subsection (5) above to a justice includes a reference to the sheriff and to a magistrate.
- (7) Part II of the Proceeds of Crime (Scotland) Act 1995 shall not apply in respect of a vehicle in relation to which this section applies.
- (8) This section extends to Scotland only.]

Textual Amendments

F1 S. 33A inserted (1.4.1996) by 1995 c. 40, s. 5, 7(2), **Sch. 4 para. 71(6)**

Changes to legislation:

Road Traffic Offenders Act 1988, Section 33A is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 29(2A) inserted by [2006 c. 49 s. 34\(2\)](#)
- s. 30A-30D inserted by [2006 c. 49 s. 34\(3\)](#)
- s. 30C(5)(f) words substituted by [S.I. 2009/1885 Sch. 1 para. 15](#)
- s. 34A(7A) inserted by [2009 c. 25 Sch. 21 para. 90\(3\)\(d\)](#)
- s. 34B(12) added by [2009 c. 25 Sch. 21 para. 90\(4\)\(c\)](#)
- s. 34D-34G inserted by [2006 c. 49 s. 15\(1\)](#)
- s. 34D(1)(d) words inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(a\)](#)
- s. 34D(3) words inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(b\)](#)
- s. 34D(5A) inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(c\)](#)
- s. 34D(6)(a) words substituted by [2009 c. 25 Sch. 21 para. 90\(5\)\(d\)\(i\)](#)
- s. 34D(6)(b) words substituted by [2009 c. 25 Sch. 21 para. 90\(5\)\(d\)\(ii\)](#)
- s. 34D(6A) inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(e\)](#)
- s. 34F(5)(f) words substituted by [S.I. 2009/1885 Sch. 1 para. 17](#)
- s. 35A(6)(a) words substituted by [2012 c. 10 Sch. 13 para. 8\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 35A(6) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), ss. 30(1)(c), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 25)
- s. 35A(6)(b) words inserted by [2012 c. 10 Sch. 13 para. 8\(c\)](#) (This amendment not applied to legislation.gov.uk. S. 35A(6) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), ss. 30(1)(c), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 25)
- s. 36(13A) inserted by [2006 c. 49 s. 37\(6\)](#)
- s. 40B(9) words substituted by [2006 c. 49 Sch. 2 para. 33](#)
- s. 41B inserted by [2006 c. 49 s. 15\(2\)](#)
- s. 84(1) s. 84 renumbered as s. 84(1) by [2004 c. 28 s. 16\(3\)](#)
- s. 84(2)(3) inserted by [2004 c. 28 s. 16\(3\)](#)
- Sch. 1 para. 3(aa) inserted by [2006 c. 49 s. 15\(3\)\(a\)](#)
- Sch. 1 para. 4(za) inserted by [2006 c. 49 s. 15\(3\)\(b\)](#)