



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

Disqualification

248 Disqualification where vehicle used to commit offence.

(1) Where a person is convicted of an offence (other than one triable only summarily) and the court which passes sentence is satisfied that a motor vehicle was used for the purposes of committing or facilitating the commission of that offence, the court may order him to be disqualified for such a period as the court thinks fit from holding or obtaining a licence to drive a motor vehicle granted under Part III of the ^{M1}Road Traffic Act 1988.

[^{F1}(2) A court which makes an order under subsection (1) above disqualifying a person from holding or obtaining a licence under Part III of the Road Traffic Act 1988 shall require him to produce—

- (a) any such licence;
- (b) any Community licence (within the meaning of that Part); and
- (c) any counterpart of a licence mentioned in paragraph (a) or (b) above, held by him.]

(3) Any reference in this section to facilitating the commission of an offence shall include a reference to the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

(4) In relation to licences [^{F2}, other than Community licences] which came into force before 1st June 1990, the reference in subsection (2) above to the counterpart of a licence shall be disregarded.

Status: Point in time view as at 06/11/2019.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Disqualification is up to date with all changes known to be in force on or before 29 May 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)

Textual Amendments

- F1** S. 248(2) substituted (1.1.1997) by [S.I. 1996/1974, reg. 5, Sch. 4 para. 6\(2\)](#)
F2 Words in s. 248(4) inserted (1.1.1997) by [1996/1974, reg. 5, Sch. 4 para. 6\(3\)](#)

Marginal Citations

- M1** [1988 c.52.](#)

[^{F3}248A General power to disqualify offenders.

- (1) Subject to subsection (2) below, the court by or before which a person is convicted of an offence may, in addition to or instead of dealing with him in any other way, order him to be disqualified from holding or obtaining a licence to drive a motor vehicle granted under Part III of the ^{M2}Road Traffic Act 1988 for such period as it thinks fit.
- (2) Where the person is convicted of an offence for which the sentence is fixed by law, subsection (1) above shall have effect as if the words “or instead of” were omitted.
- (3) Subsections (2) and (4) of section 248 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.]

Textual Amendments

- F3** Ss. 248A-248C inserted (20.10.1997 for specified purposes and otherwise 1.1.1998) by [1997 c. 48, s. 15\(1\); S.I. 1997/2323, arts. 3, 4, Schs. 1, 2](#)

Marginal Citations

- M2** [1988 c.52.](#)

[^{F4}248B Power to disqualify fine defaulters.

- (1) This section applies where the court has power to impose a period of imprisonment in default of payment of a fine, or any part or instalment of a fine.
- (2) Where this section applies, the court may, instead of imposing such a period of imprisonment as is mentioned in subsection (1) above, order that where the offender is in default he shall be disqualified from holding a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988 for such period not exceeding twelve months as the court thinks fit.
- (3) Where an order has been made under subsection (2) above in default of payment of any fine, or any part or instalment of a fine—
 - (a) on payment of the fine to any person authorised to receive it, the order shall cease to have effect; and
 - (b) on payment of any part of that fine to any such person, the period of disqualification to which the order relates shall be reduced (or, as the case may be, further reduced) by a number of days bearing as nearly as possible the same proportion to such period as the sum so paid bears to the amount of the fine outstanding at the commencement of that period.
- (4) Subsections (2) and (4) of section 248 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.

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- (5) Section 19 of the ^{M3}Road Traffic Offenders Act 1988 (proof of disqualification in Scottish proceedings) shall apply to an order under subsection (2) above as it applies to a conviction or extract conviction.
- (6) The Secretary of State may by order made by statutory instrument vary the period specified in subsection (2) above; but no such order shall be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.]

Textual Amendments

F4 Ss. 248A-248C inserted (20.10.1997 for specified purposes and otherwise 1.1.1998) by [1997 c. 48, s. 15\(1\)](#); [S.I. 1997/2323, arts. 3, 4, Schs. 1, 2](#)

Marginal Citations

M3 [1988 c.53](#).

[^{F5}248C Application of sections 248A and 248B.

- (1) The Secretary of State may by order prescribe which courts, or class or classes of courts, may make orders under section 248A or 248B of this Act ^{F6}....
- (2) An order made under subsection (1) above shall be made by statutory instrument and any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

^{F7}(3)]

Textual Amendments

F5 Ss. 248A-248C inserted (20.10.1997 for specified purposes and otherwise 1.1.1998) by [1997 c. 48, s. 15\(1\)](#); [S.I. 1997/2323, arts. 3, 4, Schs. 1, 2](#)

F6 Words in s. 248C(1) repealed (1.4.2016) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\), s. 138\(2\), sch. 5 para. 39\(5\)](#); [S.S.I. 2016/13, art. 2, sch. \(with art. 3\)](#)

F7 S. 248C(3) repealed (16.7.2018) by [Coroners and Justice Act 2009 \(c. 25\), s. 182\(5\), Sch. 21 para. 91, Sch. 23 Pt. 4 \(with s. 180\)](#); [S.I. 2018/733, art. 2\(c\)](#)

[^{F8}248D Extension of disqualification where sentence of imprisonment also imposed

- (1) This section applies where a person is convicted of an offence for which the court—
 - (a) imposes a sentence of imprisonment, and
 - (b) orders the person to be disqualified under section 248 or 248A of this Act from holding or obtaining a driving licence.
- (2) The order under section 248 or 248A of this Act must provide for the person to be disqualified for the appropriate extension period, in addition to the discretionary disqualification period.
- (3) The discretionary disqualification period is the period for which, in the absence of this section, the court would have disqualified the person under section 248 or 248A of this Act.
- (4) The appropriate extension period is—

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- (a) in the case of a life prisoner, a period equal to the punishment part of the life sentence;
 - (b) in the case of a custody and community prisoner, a period equal to half the custody part of the sentence of imprisonment;
 - (c) in the case of a person serving an extended sentence, a period equal to half the confinement term;
 - (d) in any other case, a period equal to half the sentence of imprisonment imposed.
- (5) If a period determined under subsection (4) includes a fraction of a day, that period is to be rounded up to the nearest number of whole days.
- (6) For the purposes of subsection (4), a sentence is to be taken to start on the date of commencement of the sentence.
- (7) Subsection (8) applies where an amending order provides for a different proportion (“the new proportion”) to be substituted for the proportion of a prisoner’s sentence referred to in section 6(4)(a) of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) (“the 2007 Act”).
- (8) The Secretary of State may by order provide that the proportion specified in subsection (4)(b) and (c) of this section is to be read, in the case of a sentence of imprisonment to which the amending order relates, as a reference to the new proportion.
- (9) An order under subsection (8) is to be made by statutory instrument and a draft of the statutory instrument containing the order must be laid before, and approved by a resolution of, each House of Parliament.
- (10) In this section—
- “amending order” means an order made by the Scottish Ministers under section 7 of the 2007 Act;
 - “confinement term” has the meaning given by section 210A(2)(a) of this Act;
 - “custody and community prisoner” has the meaning given by section 4 of the 2007 Act;
 - “custody part” has the meaning given by section 6(3) of the 2007 Act;
 - “extended sentence” has the meaning given by section 210A of this Act;
 - “life prisoner” has the meaning given by section 4 of the 2007 Act;
 - “punishment part” has the meaning given by section 4 of the 2007 Act;
 - “sentence of imprisonment” includes—
- (a) an order for detention in residential accommodation under section 44 of this Act, and
 - (b) a sentence of detention under section 205, 207 or 208 of this Act.

Textual Amendments

F8 Ss. 248D, 248E inserted (16.7.2018) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 16 para. 3](#) (with s. 180, [Sch. 22 paras. 29, 36](#)); S.I. 2018/733, art. 2(b)

Status: Point in time view as at 06/11/2019.

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Modifications etc. (not altering text)

- C1** S. 248D excluded by 2003 c. 32, s. 54(3A)(b) (as inserted (1.8.2017 as notified in the London Gazette dated 1.8.2017 (Issue 62012, p. 14601)) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 7 para. 2(4) (with Sch. 7 para. 27); S.I. 2017/189, art. 3)

248E Effect of sentence of imprisonment in other cases

- (1) This section applies where a person is convicted of an offence for which a court proposes to order the person to be disqualified under section 248 or 248A from holding or obtaining a driving licence and—
 - (a) the court proposes to impose on the person a sentence of imprisonment for another offence, or
 - (b) at the time of sentencing for the offence, a sentence of imprisonment imposed on the person on an earlier occasion has not expired.
- (2) In determining the period for which the person is to be disqualified under section 248 or 248A, the court must have regard to the consideration in subsection (3) if and to the extent that it is appropriate to do so.
- (3) The consideration is the diminished effect of disqualification as a distinct punishment if the person who is disqualified is also detained in pursuance of a sentence of imprisonment.
- (4) If the court proposes to order the person to be disqualified under section 248 or 248A and to impose a sentence of imprisonment for the same offence, the court may not in relation to that disqualification take that sentence of imprisonment into account for the purposes of subsection (2).
- (5) In this section “sentence of imprisonment” has the same meaning as in section 248D.]

Textual Amendments

- F8** Ss. 248D, 248E inserted (16.7.2018) by Coroners and Justice Act 2009 (c. 25), s. 182(5), Sch. 16 para. 3 (with s. 180, Sch. 22 paras. 29, 36); S.I. 2018/733, art. 2(b)

Status:

Point in time view as at 06/11/2019.

Changes to legislation:

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