

ROAD SAFETY ACT 2006

EXPLANATORY NOTES

ATTENDANCE ON COURSES

Section 34: Penalty points

107. This section inserts into the RTOA new sections 30A, 30B, 30C and 30D. These have the effect of enabling courts to offer persons convicted of the offences of careless, and inconsiderate driving, failing to comply with traffic signs or speeding, the opportunity to pay for and undertake a retraining course in certain circumstances where the driver is not to be disqualified but is to have his licence endorsed with penalty points. The circumstances are that there should be at least 7 and no more than 11 points to be taken into account at the time of conviction. Where a person successfully completes a course within ten months of the date of the order, twelve months after the date of the order 3 points (or fewer if the court endorsed fewer) relating to the conviction will cease to be taken into consideration under section 29 of the RTOA (penalty points to be taken into account on conviction). Effectively this would mean that the points were no longer to be considered for the purposes of the "totting-up" provisions of section 35 of the RTOA. (Where the total number of points on the licence is 12 or more the licence holder is liable to disqualification under section 35 of the RTOA (disqualification for repeated offences)).
108. The option will **not** be available to any person who has committed one of the offences mentioned above in the previous three years and successfully completed an approved course pursuant to an order under section 30A or 34A of the RTOA on conviction of the offence, nor to a person who committed the offence during his probationary period under the Road Traffic (New Drivers) Act 1995. However the Secretary of State may by regulations change this three year period and may change the minimum number of points to be taken into account for an offender to be eligible for a course.
109. Other provisions in new section 30A include provisions similar to those contained in section 34A of the RTOA in requiring that the court must be satisfied that a place is available on a course before making an order, must explain, orally or in writing and in ordinary language, the effect of the order to the offender and that the offender must agree to it. New section 30B deals with certificates of completion similarly to section 34B.
110. Provision is made for approval of courses by the Secretary of State or, as respects Wales, the National Assembly for Wales and, as with courses for drink drive rehabilitation, this covers guidance and arrangements for appeal to the Transport Tribunal for an applicant whose approval is denied or withdrawn. The retraining courses provided under new sections 30A, 30B, 30C and 30D of the RTOA are entirely separate from the Driver Improvement Scheme and Speed Awareness Courses, which are at the discretion of the police without any court involvement.

Section 35: Reduced disqualification period for attendance on course

111. This section substitutes sections 34A, 34B and 34C of the RTOA and inserts a new section 34BA.

*These notes refer to the Road Safety Act 2006 (c.49)
which received Royal Assent on 8 November 2006*

112. The amended versions of these sections extend the principle of the Drink Drive Rehabilitation scheme to certain other offences. Courts will have the power to offer offenders the opportunity to pay for and undertake a retraining course, successful completion of which will reduce the period of the offender's disqualification by an amount specified in the court order. In addition to those for whom this option is currently available, it will also be available for those persons who are disqualified for 12 months or more on conviction of failing to allow a specimen to be subjected to a laboratory test in the course of an investigation into certain offences. In addition, it will also be available to those persons who are disqualified for 12 months or more on conviction of: careless, and inconsiderate, driving, failing to comply with traffic signs or speeding (defined in section 34A(3) as "specified offences"). The option will **not** however be available to an offender convicted of a specified offence if the offender has committed one of the specified offences in the previous three years and successfully completed an approved course pursuant to an order under section 34A or 30A of the RTOA, nor to a person who is within his probationary period under the Road Traffic (New Drivers) Act 1995.
113. The effect of the substituted provisions also means that the court in which the conviction is heard will administer the case (the "supervising court"). If the offender appeals against a course provider's decision not to give a certificate of completion of a course or seeks a declaration that the course provider is in default, he may apply to either the supervising court or a relevant local court in the area in which the offender resides. This replaces the previous system whereby in all cases where the offender lived outside the petty sessional division area of the court where the conviction was heard, a supervising court was appointed in the petty sessional division area in which the offender resided or was about to reside.
114. New section 34BA provides for the approval of courses by the Secretary of State, or, as respects Wales, the National Assembly for Wales. It includes a regulatory regime to monitor, grant approval and withdraw approval from course providers and courses. It also provides for appeal to the Transport Tribunal for an applicant whose approval is denied or withdrawn.
115. The Secretary of State may vary by regulations those specified offences in respect of training course orders that may be made under section 34A. The Secretary of State may also vary by regulations the minimum period for which a person must be disqualified to be eligible for such an order, the minimum reduction in the disqualification period, the fraction of the disqualification period that may be the reduction, and the period over which a previous conviction and successful completion of a previous training course would make the offender ineligible for a course under section 34A.