

SCHEDULES

SCHEDULE 2

Section 9

ENDORSEMENT: UNLICENSED AND FOREIGN DRIVERS

Public Passenger Vehicles Act 1981 (c. 14)

- 1 (1) Section 24 of the Public Passenger Vehicles Act 1981 (regulation of conduct of drivers, inspectors and conductors) is amended as follows.
- (2) In subsection (2), insert at the end “or, if he is not the holder of a licence (within the meaning of Part 3 of the Road Traffic Act 1988), on his driving record (within the meaning of section 97A of the Road Traffic Offenders Act 1988)”.
- (3) In subsection (3)—
 - (a) for “the licence and its counterpart” substitute “any counterpart of a licence which is to be endorsed under subsection (2) above”, and
 - (b) for “them” substitute “it and the licence”.

Road Traffic Offenders Act 1988 (c. 53)

- 2 The Road Traffic Offenders Act 1988 is amended as follows.
- 3 In section 28(3) (penalty points to be attributed to an offence), for “and 77(5)” substitute “, 57A(6), 77(5) and 77A(8)”.
- 4 In section 29(1)(b) (penalty points to be taken into account on conviction), after “him” insert “or on his driving record”.
- 5 (1) Section 30 (modification of sections 28 and 29 in case where fixed penalty also in question) is amended as follows.
 - (2) In subsection (1)(b)—
 - (a) after “licence” insert “or his driving record”, and
 - (b) for “or 77” substitute “, 57A, 77 or 77A”.
 - (3) In subsection (2)(b)—
 - (a) after “licence” insert “or on his driving record”, and
 - (b) for “or 77” substitute “, 57A, 77 or 77A”.
- 6 (1) Section 31 (court may take particulars endorsed on licence into consideration) is amended as follows.
 - (2) For subsection (1) substitute—

“(1) Where a person is convicted of an offence involving obligatory or discretionary disqualification—

 - (a) any existing endorsement on the counterpart of his licence or on his driving record is prima facie evidence of the matters endorsed, and

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- (b) the court may, in determining what order to make in pursuance of the conviction, take those matters into consideration.”
- (3) In the heading, omit **“on licence”**.
- 7 In section 36 (disqualification until test passed), after subsection (10) insert—
 - “(10A) Where a person’s driving record is endorsed with particulars of a disqualification under this section, it shall also be endorsed with the particulars of any test of competence to drive that he has passed since the order of disqualification was made.”
- 8 (1) Section 42 (removal of disqualification) is amended as follows.
 - (2) In subsection (5), for paragraph (a) substitute—
 - “(a) must—
 - (i) if particulars of the disqualification were previously endorsed on the counterpart of any licence previously held by the applicant, cause particulars of the order to be endorsed on that counterpart, and
 - (ii) if particulars of the disqualification were previously endorsed on the driving record of the applicant, send notice of the order to the Secretary of State,”.
 - (3) In subsection (5A), for “(5)(a)” substitute “(5)(a)(i)”.
 - (4) After that subsection insert—
 - “(5AA) If the disqualification was imposed in respect of an offence involving obligatory endorsement, the Secretary of State must, on receiving notice of an order under subsection (5)(a)(ii) above, make any necessary adjustments to the endorsements on the person’s driving record to reflect the order.”
 - (5) In subsection (5B), after “subsection” insert “(5)(a)(ii) or”.
- 9 (1) Section 45 (effect of endorsement) is amended as follows.
 - (2) In subsection (1), omit “, whether he is at the time the holder of a licence or not,”.
 - (3) In the heading, insert at the end **“of counterparts”**.
- 10 After that section insert—

“45A Effect of endorsement of driving records

- (1) An order that any particulars or penalty points are to be endorsed on a person’s driving record shall operate as an order that his driving record is to be so endorsed until the end of the period for which the endorsement remains effective.
- (2) At the end of the period for which the endorsement remains effective the Secretary of State must remove the endorsement from the person’s driving record.
- (3) On the issue of a new licence to a person, any particulars ordered to be endorsed on his driving record shall be entered on the counterpart of the licence unless he has become entitled under subsection (4) below to have

a licence issued to him with its counterpart free from those particulars or penalty points.

(4) A person the counterpart of whose licence has been endorsed under subsection (3) above is entitled to have issued to him with effect from the end of the period for which the endorsement remains effective a new licence with a counterpart free from the endorsement if he applies for a new licence in pursuance of section 97(1) of the Road Traffic Act 1988, surrenders any subsisting licence and its counterpart, pays the fee prescribed by regulations under Part 3 of that Act and satisfies the other requirements of section 97(1).

(5) The period for which an endorsement remains effective is determined in accordance with section 45(5) to (7) of this Act.”

11 (1) Section 46 (combination of disqualification and endorsement with certain other orders) is amended as follows.

(2) In subsection (1), for “or 44” substitute “, 44 or 44A”.

(3) In subsection (2)(b), insert at the end “or on his driving record”.

(4) In subsection (3), for “and 45” substitute “, 45 and 45A”.

12 (1) Section 47 (supplementary provisions as to disqualification and endorsements) is amended as follows.

(2) In subsection (3), after “licence” insert “or a driving record”.

(3) After that subsection insert—

“(3A) On receiving such a notice in relation to a person who is not the holder of a licence, the Secretary of State must make any necessary adjustments to the endorsements on the person’s driving record to reflect the outcome of the appeal.”

13 In section 48(1)(b) and (2)(b) (exemption from disqualification and endorsement for certain construction and use offences), after “him” insert “or on his driving record”.

14 (1) Section 54 (notices on-the-spot etc.) is amended as follows.

(2) In subsection (2), for “subsection (3) below” substitute “the following provisions of this section”.

(3) In subsection (3), after “endorsement” insert “, and the person is the holder of a licence,”.

(4) In subsection (4)—

(a) for the word “and” at the end of paragraph (a) substitute—

“(aa) the person concerned is the holder of a licence, and”,

(b) in paragraph (b), for “the person concerned” substitute “he”.

(5) In subsection (6), after “subsection (4)” insert “or (5C)”.

(6) In subsection (10), for “subsections (3)(b) and (5)(a) above” substitute “this section”.

15 (1) Section 57 (endorsement without hearings) is amended as follows.

(2) In subsection (1), after “a person” insert “who is the holder of a licence”.

(3) In the heading, for “**licences**” substitute “**counterparts**”.

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16 In section 58 (effect of endorsement without hearing), in the heading, after
 “**endorsement**” insert “**of counterpart**”.

17 After that section insert—

“58A Effect of endorsement of driving record without hearing

(1) Where a person’s driving record is endorsed under section 57A of this Act he shall be treated for the purposes of sections 13(4), 28, 29 and 45A of this Act and of the Rehabilitation of Offenders Act 1974 as if—

- (a) he had been convicted of the offence,
- (b) the endorsement had been made in pursuance of an order made on his conviction by a court under section 44 of this Act, and
- (c) the particulars of the offence endorsed by virtue of section 57A(6) (a) of this Act were particulars of his conviction of that offence.

(2) In relation to any endorsement of a person’s driving record under section 57A of this Act, the references in section 13(4) of this Act to any order made on a person’s conviction are to be read as references to the endorsement itself.”

18 In section 61 (fixed penalty notice mistakenly given: exclusion of fixed penalty procedures), in the heading, after “**given**” insert “**to licence holder**”.

19 After that section insert—

“61A Fixed penalty notice mistakenly given to unlicensed person: exclusion of fixed penalty procedures

(1) This section applies where, on accessing information held on the driving record of a person to whom a fixed penalty notice was given under section 54 of this Act, but who is not the holder of a licence, it appears to the fixed penalty clerk or the Secretary of State that the person would be liable to be disqualified under section 35 of this Act if he were convicted of the offence in respect of which the fixed penalty notice was given.

(2) The person’s driving record must not be endorsed under section 57A of this Act.

(3) In a case where the fixed penalty is required to be paid to the fixed penalty clerk he must not send notice to the Secretary of State under section 57A of this Act but instead must notify the chief officer of police that the person to whom the fixed penalty notice was given would be liable to be disqualified under section 35 of this Act if he were convicted of the offence in respect of which the fixed penalty notice was given.

(4) Nothing in this Part of this Act prevents proceedings being brought in respect of the offence in respect of which the fixed penalty notice was given where those proceedings are commenced before the end of the period of six months beginning with the date on which that notice was given.

(5) Where proceedings in respect of that offence are commenced before the end of that period, the case is from then on to be treated in all respects as if no fixed penalty notice had been given in respect of the offence.

(6) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of this Part of this Act by

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reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision—

- (a) the registration under section 71 of this Act of any sum, determined by reference to the fixed penalty for that offence, for enforcement against the person to whom the fixed penalty notice was given, and
- (b) any proceedings for enforcing payment of any such sum within the meaning of sections 73 and 74 of this Act (defined in section 74(5))).

- (7) In determining for the purposes of subsection (1) above whether a person convicted of an offence would be liable to disqualification under section 35, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part 1 of Schedule 2 to this Act, that the number of penalty points to be attributed to the offence would be the lowest in the range.”

20 In section 69(4) (payment of penalty), for “77” substitute “77A”.

21 (1) In section 70(4) (registration certificates), after paragraph (b) insert “and

(c) otherwise—

- (i) if the offence to which the fixed penalty notice or conditional offer relates was committed in England or Wales, cause it to be sent to the designated officer for the local justice area in which the offence was committed, or
- (ii) if the offence was committed in Scotland, cause it to be sent to the clerk of a court of summary jurisdiction for the area in which the offence was committed.”

(2) An order under section 61 may provide that sub-paragraph (1) is to come into force only in relation to an area specified in the order.

(3) If such an order provides that sub-paragraph (1) is to come into force only in relation to an area specified in the order, it may also provide that (unless continued in force by a subsequent order) sub-paragraph (1) is to remain in force there only for a period specified in the order.

22 (1) Section 71 (registration of sums payable in default) is amended as follows.

(2) In subsection (1), after paragraph (a) insert “or” and after paragraph (c) insert “or

(d) if it appears to him that the defaulter does not reside in England, Wales or Scotland—

- (i) in a case where the offence to which the fixed penalty notice or conditional offer relates was committed in the local justice area for which he is the designated officer, he must register that sum for enforcement as a fine in that area by entering it in the register of a magistrates' court acting in that area,
- (ii) in a case where it was committed in another local justice area in England and Wales, he must send the certificate to the designated officer for that area, and
- (iii) in a case where it was committed in Scotland, he must send the certificate to the clerk of a court of summary jurisdiction for the area in which the offence was committed.”

(3) In subsection (2), after paragraph (a) insert “or” and after paragraph (c) insert “or

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- (d) if it appears to him that the defaulter does not reside in England, Wales or Scotland—
 - (i) in a case where the offence to which the fixed penalty notice or conditional offer relates was committed in the area of the court, he must register that sum for enforcement as a fine by that court,
 - (ii) in a case where it was committed in an area of any other court of summary jurisdiction in Scotland, he must send the certificate to the clerk of that court, and
 - (iii) in a case where it was committed in England or Wales, he must send the certificate to the designated officer for the local justice area in which the offence was committed.”
- (4) An order under section 61 may provide that sub-paragraphs (1) to (3) are to come into force only in relation to an area specified in the order.
- (5) If such an order provides that sub-paragraphs (1) to (3) are to come into force only in relation to an area specified in the order, it may also provide that (unless continued in force by a subsequent order) sub-paragraphs (1) to (3) are to remain in force there only for a period specified in the order.
- 23 (1) Section 72 (notices on-the-spot etc.: when registration and endorsement invalid) is amended as follows.
- (2) After subsection (4) insert—
 - “(4A) Where in any case within subsection (2)(a) above the driving record of the person to whom the relevant fixed penalty notice was given was endorsed under section 57A of this Act in respect of the offence in respect of which the notice was given, the endorsement shall be void.”
- (3) In subsection (5)(a), after “57” insert “or 57A”.
- (4) After subsection (6) insert—
 - “(6A) The proper officer of the relevant court must send notice to the Secretary of State of any endorsement of a person’s driving record that is void by virtue of this section and the Secretary of State must adjust the endorsements on that record accordingly.”
- 24 (1) Section 75 (issue of conditional offer) is amended as follows.
- (2) In subsection (5), for “and 77” substitute “, 77 and 77A”.
- (3) In subsection (6), for “and 77” substitute “, 77 and 77A”.
- (4) In subsection (8), after “conditional offer” insert “sent to an alleged offender who is the holder of a licence”.
- (5) After subsection (8) insert—
 - “(8A) A conditional offer sent to an alleged offender who is not the holder of a licence must indicate that if the following conditions are fulfilled, that is—
 - (a) within the period of twenty-eight days following the date on which the offer was issued, or such longer period as may be specified in the offer, the alleged offender makes payment of the fixed penalty to the appropriate person, and

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- (b) the appropriate person is satisfied, on accessing information held on the driving record of the alleged offender, that if he were convicted of the offence, he would not be liable to be disqualified under section 35 of this Act,
any liability to conviction of the offence shall be discharged.”
- (6) In subsection (9)—
 - (a) for “condition” substitute “conditions”, and
 - (b) after “(8)(b)” insert “and (8A)(b)”.
- (7) In subsection (11A), for “and 77” substitute “, 77 and 77A”.
- 25 (1) Section 76 (effect of offer and payment of penalty) is amended as follows.
 - (2) In subsection (3)—
 - (a) in paragraph (a), after “counterpart” insert “or (where the alleged offender is not the holder of a licence) accessing information held on his driving record”, and
 - (b) in paragraph (b), after “with” insert “(where he is the holder of a licence)”.
 - (3) In subsection (4), after “75(8)(a)” insert “or (8A)(a)”.
- 26 (1) Section 77 (endorsement where penalty paid) is amended as follows.
 - (2) In subsection (1)(a), after “a person” insert “who is the holder of a licence”.
 - (3) In the heading, after “**endorsement**” insert “**of counterparts**”.
- 27 After that section insert—

“77A Endorsement of driving records where penalty paid

- (1) Where—
 - (a) in pursuance of a conditional offer issued under subsection (1), (2) or (3) of section 75 of this Act a person who is not the holder of a licence (referred to in this section as the “alleged offender”) makes payment of the fixed penalty to the fixed penalty clerk, and
 - (b) proceedings against the alleged offender for the offence to which the conditional offer relates are excluded by section 76 of this Act,the fixed penalty clerk must forthwith send to the Secretary of State notice of the relevant particulars to be endorsed on the alleged offender’s driving record.
- (2) The Secretary of State must endorse the relevant particulars on a person’s driving record—
 - (a) on receiving notice under subsection (1) above, or
 - (b) if, in pursuance of a conditional offer issued under subsection (1A) or (3B) of section 75 of this Act, a person who is not the holder of a licence (also referred to in this section as the “alleged offender”) makes payment of the fixed penalty to him and proceedings against the alleged offender are excluded by section 76 of this Act.
- (3) Where in Scotland the appropriate person is the fixed penalty clerk and it appears to him that there is an error in an endorsement made by virtue of this

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section on a person's driving record, he may send to the Secretary of State notice of the error.

- (4) Subject to subsection (5) below, where a cheque tendered in payment is subsequently dishonoured—
 - (a) any endorsement made by the Secretary of State under subsection (2) above remains effective notwithstanding that the alleged offender is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and
 - (b) unless the appropriate person is the Secretary of State, the appropriate person must upon expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the person required to be notified that no payment has been made.
- (5) When proceedings are brought against an alleged offender where subsection (4) above applies, the court—
 - (a) must order the removal of the fixed penalty endorsement from the driving record of the alleged offender,
 - (b) may, on finding the alleged offender guilty, make any competent order of endorsement or disqualification and pass any competent sentence, and
 - (c) must send to the Secretary of State notice of any order made under paragraph (a) or (b) above.
- (6) On receiving notice under subsection (3) above, the Secretary of State may correct the error in the endorsement on the driving record; and any endorsement corrected shall be treated for all purposes as if it had been correctly made on receipt of the fixed penalty.
- (7) On receiving a notice under subsection (5)(c) above, the Secretary of State must make any necessary adjustments to the endorsements on the alleged offender's driving record.
- (8) The references in subsection (1) and (2) above to the relevant particulars are to—
 - (a) particulars of the offence, including the date when it was committed, and
 - (b) the number of penalty points to be attributed to the offence.
- (9) Where a person's driving record is endorsed under this section he shall be treated for the purposes of sections 13(4), 28, 29 and 45A of this Act and of the Rehabilitation of Offenders Act 1974 as if—
 - (a) he had been convicted of the offence,
 - (b) the endorsement had been made in pursuance of an order made on his conviction by a court under section 44 of this Act, and
 - (c) the particulars of the offence endorsed by virtue of subsection (8)(a) above were particulars of his conviction of that offence.
- (10) In relation to any endorsement of a person's driving record under this section, the references in section 13(4) of this Act to any order made on a person's conviction are to be read as references to the endorsement itself."

28 (1) Section 83 (powers of court in cases of deception) is amended as follows.

(2) After subsection (1) insert—

“(1A) This section also applies where—

- (a) particulars are endorsed on a person’s driving record under section 57A of this Act because the fixed penalty clerk or the Secretary of State is deceived as to whether endorsement under that section is excluded by section 61A(2) of this Act by virtue of the fact that the person to whom the fixed penalty notice was given would be liable to be disqualified under section 35 of this Act if he were convicted of the offence, or
- (b) particulars are endorsed on a person’s driving record under section 77A of this Act because the appropriate person or court is deceived as to whether proceedings against the person are excluded by section 76 of this Act by virtue of the fact that the person to whom the conditional offer is issued would be liable to be disqualified under section 35 of this Act if he were convicted of the offence.”

(3) In subsection (2)—

- (a) in paragraph (a), for “licence holder” substitute “person to whom the fixed penalty notice was given or conditional offer was issued”,
- (b) in paragraph (b), for “the licence holder” substitute “he”,
- (c) after “57” insert “or 57A”, and
- (d) after “77” insert “or 77A”.

29 In section 84(1) (regulations), after “54(4)” insert “or (5C)”.

30 After section 84 insert—

“84A Notices to Secretary of State

Any notice sent to the Secretary of State under this Part must be sent in such manner and to such address and contain such particulars as the Secretary of State may determine.”

31 In section 91ZA(1) (application to Northern Ireland licence holders)—

- (a) in paragraph (i), after “44(1)” insert “and (3A)”, and
- (b) in paragraph (k), for “and (3)” substitute “, (3) and (3A)”.

32 In section 91A(1) (application to Community licence holders)—

- (a) after “44(1)” insert “and (3A)”, and
- (b) after “47(3)” insert “and (3A)”.

Child Support Act 1991 (c. 48)

33 In section 40B(9) of the Child Support Act 1991 (disqualification from driving: further provision), for “the driving” substitute “any driving”.