



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART I

#### TRIAL

##### *Trial*

#### **9 Mode of trial**

An offence against a provision of the Traffic Acts specified in column 1 of Part I of Schedule 2 to this Act or regulations made under such a provision (the general nature of which offence is indicated in column 2) shall be punishable as shown against the offence in column 3 (that is, on summary conviction or on indictment or in either one way or the other).

#### **10 Jurisdiction of district court in Scotland**

- (1) Notwithstanding anything in any enactment or rule of law to the contrary, a district court in Scotland may try—
  - (a) any fixed penalty offence (within the meaning of Part III of this Act), and
  - (b) any other offence in respect of which a conditional offer (within the meaning of sections 75 to 77 of this Act) may be sent.
- (2) Subject to subsection (1) above, the district court may not try any offence involving obligatory endorsement.

#### **11 Evidence by certificate as to driver, user or owner**

- (1) In any proceedings in England and Wales for an offence to which this section applies, a certificate in the prescribed form, purporting to be signed by a constable and certifying that a person specified in the certificate stated to the constable—
  - (a) that a particular motor vehicle was being driven or used by, or belonged to, that person on a particular occasion, or

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- (b) that a particular motor vehicle on a particular occasion was used by, or belonged to, a firm and that he was, at the time of the statement, a partner in that firm, or
- (c) that a particular motor vehicle on a particular occasion was used by, or belonged to, a corporation and that he was, at the time of the statement, a director, officer or employee of that corporation,

shall be admissible as evidence for the purpose of determining by whom the vehicle was being driven or used, or to whom it belonged, as the case may be, on that occasion.

- (2) Nothing in subsection (1) above makes a certificate admissible as evidence in proceedings for an offence except in a case where and to the like extent to which oral evidence to the like effect would have been admissible in those proceedings.
- (3) Nothing in subsection (1) above makes a certificate admissible as evidence in proceedings for an offence—
  - (a) unless a copy of it has, not less than seven days before the hearing or trial, been served in the prescribed manner on the person charged with the offence, or
  - (b) if that person, not later than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice in the prescribed form and manner on the prosecutor requiring attendance at the trial of the person who signed the certificate.
- (4) In this section “prescribed” means prescribed by rules made by the Secretary of State by statutory instrument.
- (5) Schedule 1 to this Act shows the offences to which this section applies.

## **12 Proof, in summary proceedings, of identity of driver of vehicle**

- (1) Where on the summary trial in England and Wales of an information for an offence to which this subsection applies—
  - (a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules made under section 144 of the Magistrates' Courts Act 1980, that a requirement under section 172(2) of the Road Traffic Act 1988 to give information as to the identity of the driver of a particular vehicle on the particular occasion to which the information relates has been served on the accused by post, and
  - (b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of that vehicle on that occasion,the court may accept that statement as evidence that the accused was the driver of that vehicle on that occasion.
- (2) Schedule 1 to this Act shows the offences to which subsection (1) above applies.
- (3) Where on the summary trial in England and Wales of an information for an offence to which section 112 of the Road Traffic Regulation Act 1984 applies—
  - (a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules made under section 144 of the Magistrates' Courts Act 1980, that a requirement under section 112(2) of the Road Traffic Regulation Act 1984 to give information as to the identity of the driver of a particular vehicle on the particular occasion to which the information relates has been served on the accused by post, and

(b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of that vehicle on that occasion, the court may accept that statement as evidence that the accused was the driver of that vehicle on that occasion.

### **13 Admissibility of records as evidence**

- (1) This section applies to a statement contained in a document purporting to be—
- (a) a part of the records maintained by the Secretary of State in connection with any functions exercisable by him by virtue of Part III of the Road Traffic Act 1988 or a part of any other records maintained by the Secretary of State with respect to vehicles, or
  - (b) a copy of a document forming part of those records, or
  - (c) a note of any information contained in those records,
- and to be authenticated by a person authorised in that behalf by the Secretary of State.
- (2) A statement to which this section applies shall be admissible in any proceedings as evidence (in Scotland, sufficient evidence) of any fact stated in it to the same extent as oral evidence of that fact is admissible in those proceedings.
- (3) In the preceding subsections—
- (a) “document” and “statement” have the same meanings as in section 10(1) of the Civil Evidence Act 1968 or, in Scotland, section 17(3) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, and
  - (b) the reference to a copy of a document shall be construed in accordance with section 10(2) of the Civil Evidence Act 1968 or, in Scotland, section 17(4) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968.

Nothing in this subsection shall be construed as limiting to civil proceedings the references to proceedings in the preceding provisions of this section.

- (4) In any case where—
- (a) a statement to which this section applies is produced to a magistrates' court in any proceedings for an offence involving obligatory or discretionary disqualification,
  - (b) the statement specifies an alleged previous conviction of an accused person of any such offence or any order made on the conviction,
  - (c) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed by rules under section 144 of the Magistrates' Courts Act 1980, that not less than seven days before the statement is so produced a notice was served on the accused, in such form and manner as may be so prescribed, specifying the previous conviction or order and stating that it is proposed to bring it to the notice of the court in the event of or, as the case may be, in view of his conviction, and
  - (d) the accused is not present in person before the court when the statement is so produced,
- the court may take account of the previous conviction or order as if the accused had appeared and admitted it.
- (5) Nothing in the preceding provisions of this section enables evidence to be given in respect of any matter other than a matter of a description prescribed by regulations made by the Secretary of State.

- (6) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **14 Use of records kept by operators of goods vehicles**

In any proceedings for a contravention of or failure to comply with construction and use requirements (within the meaning of Part II of the Road Traffic Act 1988) or regulations under section 74 of that Act, any record purporting to be made and authenticated in accordance with regulations under that section shall be evidence (and in Scotland sufficient evidence) of the matters stated in the record and of its due authentication.

#### **15 Use of specimens in proceedings for an offence under section 4 or 5 of the Road Traffic Act**

- (1) This section and section 16 of this Act apply in respect of proceedings for an offence under section 4 or 5 of the Road Traffic Act 1988 (motor vehicles: drink and drugs); and expressions used in this section and section 16 of this Act have the same meaning as in sections 4 to 10 of that Act.
- (2) Evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by the accused shall, in all cases, be taken into account and, subject to subsection (3) below, it shall be assumed that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than in the specimen.
- (3) If the proceedings are for an offence under section 5 of that Act or, where the accused is alleged to have been unfit through drink, for an offence under section 4 of that Act, that assumption shall not be made if the accused proves—
- (a) that he consumed alcohol after he had ceased to drive, attempt to drive or be in charge of a motor vehicle on a road or other public place and before he provided the specimen, and
  - (b) that had he not done so the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and, if the proceedings are for an offence under section 4 of that Act, would not have been such as to impair his ability to drive properly.
- (4) A specimen of blood shall be disregarded unless it was taken from the accused with his consent by a medical practitioner.
- (5) Where, at the time a specimen of blood or urine was provided by the accused, he asked to be provided with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—
- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen provided by the accused was divided at the time it was provided, and
  - (b) the other part was supplied to the accused.

## **16 Documentary evidence as to specimens in such proceedings**

- (1) Evidence of the proportion of alcohol or a drug in a specimen of breath, blood or urine may, subject to subsections (3) and (4) below and to section 15(5) of this Act, be given by the production of a document or documents purporting to be whichever of the following is appropriate, that is to say—
  - (a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a constable (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement, and
  - (b) a certificate signed by an authorised analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.
- (2) Subject to subsections (3) and (4) below, evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner may be given by the production of a document purporting to certify that fact and to be signed by a medical practitioner.
- (3) Subject to subsection (4) below—
  - (a) a document purporting to be such a statement or such a certificate (or both such a statement and such a certificate) as is mentioned in subsection (1)(a) above is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than seven days before the hearing, and
  - (b) any other document is so admissible only if a copy of it has been served on the accused not later than seven days before the hearing.
- (4) A document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than three days before the hearing or within such further time as the court may in special circumstances allow, has served notice on the prosecutor requiring the attendance at the hearing of the person by whom the document purports to be signed.
- (5) In Scotland—
  - (a) a document produced in evidence on behalf of the prosecution in pursuance of subsection (1) or (2) above and, where the person by whom the document was signed is called as a witness, the evidence of that person, shall be sufficient evidence of the facts stated in the document, and
  - (b) a written execution purporting to be signed by the person who handed to or served on the accused or the prosecutor a copy of the document or of the notice in terms of subsection (3) or (4) above, together with, where appropriate, a post office receipt for the registered or recorded delivery letter shall be sufficient evidence of the handing or service of such a copy or notice.
- (6) A copy of a certificate required by this section to be served on the accused or a notice required by this section to be served on the prosecutor may be served personally or sent by registered post or recorded delivery service.
- (7) In this section “authorised analyst” means—
  - (a) any person possessing the qualifications prescribed by regulations made under section 76 of the Food Act 1984 or section 27 of the Food and Drugs

(Scotland) Act 1956 as qualifying persons for appointment as public analysts under those Acts, and

- (b) any other person authorised by the Secretary of State to make analyses for the purposes of this section.

## **17 Provisions as to proceedings for certain offences in connection with the construction and use of vehicles and equipment**

- (1) If in any proceedings for an offence under section 42(1) of the Road Traffic Act 1988 (contravention of construction and use regulations)—

- (a) any question arises as to a weight of any description specified in the plating certificate for a goods vehicle, and
- (b) a weight of that description is marked on the vehicle,

it shall be assumed, unless the contrary is proved, that the weight marked on the vehicle is the weight so specified.

- (2) If, in any proceedings for an offence—

- (a) under Part II of the Road Traffic Act 1988, except sections 47 and 75, or
- (b) under section 174(2) or (5) (false statements and deception) of that Act,

any question arises as to the date of manufacture of a vehicle, a date purporting to be such a date and marked on the vehicle in pursuance of regulations under that Part of that Act shall be evidence (and in Scotland sufficient evidence) that the vehicle was manufactured on the date so marked.

- (3) If in any proceedings for the offence of driving a goods vehicle on a road, or causing or permitting a goods vehicle to be so driven, in contravention of a prohibition under section 70(2) of the Road Traffic Act 1988 any question arises whether a weight of any description has been reduced to a limit imposed by construction and use requirements, the burden of proof shall lie on the accused.

- (4) If in any proceedings in Scotland for an offence under the Traffic Acts any question arises as to a weight of any description in relation to a vehicle—

- (a) a certificate purporting to be signed by an inspector of weights and measures and certifying the accuracy of a weighbridge or other machine for weighing vehicles shall be sufficient evidence of the facts stated in the certificate, and
- (b) where the inspector is called as a witness his evidence shall be sufficient evidence of those facts.

In this subsection “inspector of weights and measures” has the same meaning as in the Weights and Measures Act 1985, except that it includes a chief inspector within the meaning of that Act.

## **18 Evidence by certificate as to registration of driving instructors and licences to give instruction**

- (1) A certificate signed by the Registrar and stating that, on any date—

- (a) a person’s name was, or was not, in the register,
- (b) the entry of a person’s name was made in the register or a person’s name was removed from it,
- (c) a person was, or was not, the holder of a current licence under section 129 of the Road Traffic Act 1988, or

- (d) a licence under that section granted to a person came into force or ceased to be in force,  
shall be evidence, and in Scotland sufficient evidence, of the facts stated in the certificate in pursuance of this section.
- (2) A certificate so stating and purporting to be signed by the Registrar shall be deemed to be so signed unless the contrary is proved.
- (3) In this section “current licence”, “Registrar” and “register” have the same meanings as in Part V of the Road Traffic Act 1988.

## **19 Evidence of disqualification in Scotland**

In any proceedings in Scotland for an offence under section 103(1)(b) of the Road Traffic Act 1988 (driving while disqualified) a conviction or extract conviction—

- (a) of which a copy has been served on the accused not less than fourteen days before his trial,
- (b) which purports to be signed by the clerk of court, and
- (c) which shows that the person named in it is disqualified for holding or obtaining a licence,

shall be sufficient evidence of the application of that disqualification to the accused, unless not less than six days before his trial he serves notice on the prosecutor that he denies that it applies to him.

## **20 Admissibility of measurement of speed by radar**

On the prosecution of a person for any speeding offence, evidence of the measurement of any speed by a device designed or adapted for measuring by radar the speed of motor vehicles shall not be admissible unless the device is of a type approved by the Secretary of State.

## **21 Proceedings in which evidence of one witness sufficient in Scotland**

- (1) In any proceedings in Scotland for an offence to which this subsection applies the accused may be convicted on the evidence of one witness.
- (2) Subsection (1) above applies to any offence created by or under an enactment and punishable on summary conviction, being an offence committed in respect of a vehicle—
- (a) by its being on a road during the hours of darkness without the lights or reflectors required by law, or
  - (b) by its obstructing a road, or waiting, or being left or parked, or being loaded or unloaded, in a road, or
  - (c) by the non-payment of a charge made at a street parking place, or
  - (d) by its being used in contravention of any provision of an order made or having effect as if made under section 1 or 9 of the Road Traffic Regulation Act 1984, being a provision—
    - (i) as to the route to be followed by vehicles of the class to which that vehicle belongs, or
    - (ii) as to roads or parts of carriageways which are not to be used for traffic by such vehicles, or

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- (iii) as to the places where such vehicles may not turn so as to face in the opposite direction to that in which they were proceeding or as to the conditions under which such vehicles may so turn, or
  - (e) by its being used or kept on a public road without a licence under the Vehicles (Excise) Act 1971 being exhibited on the vehicle in the manner prescribed under that Act, or
  - (f) by its being used or kept on a public road without a licence under that Act for the vehicle being in force within the meaning of section 8 of that Act.
- (3) Subsection (1) above also applies to any offence under section 35 or 36 of the Road Traffic Act 1988.
- (4) In subsection (2) above—
  - “hours of darkness” means the time between half-an-hour after sunset and half-an-hour before sunrise, and
  - “street parking place” means a parking place on land which forms part of a road.
- (5) References in subsection (2) above to a class of vehicles are to be interpreted as references to a class defined or described by reference to any characteristics of the vehicles or to any other circumstances whatsoever.

## **22 Notification of disability**

- (1) If in any proceedings for an offence committed in respect of a motor vehicle it appears to the court that the accused may be suffering from any relevant disability or prospective disability (within the meaning of Part III of the Road Traffic Act 1988) the court must notify the Secretary of State.
- (2) A notice sent by a court to the Secretary of State in pursuance of this section must be sent in such manner and to such address and contain such particulars as the Secretary of State may determine.