



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART I

TRIAL

Introductory

1 Requirement of warning etc. of prosecutions for certain offences

- (1) Subject to section 2 of this Act, where a person is prosecuted for an offence to which this section applies, he is not to be convicted unless—
 - (a) he was warned at the time the offence was committed that the question of prosecuting him for some one or other of the offences to which this section applies would be taken into consideration, or
 - (b) within fourteen days of the commission of the offence a summons (or, in Scotland, a complaint) for the offence was served on him, or
 - (c) within fourteen days of the commission of the offence a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was—
 - (i) in the case of an offence under section 28 or 29 of the Road Traffic Act 1988 (cycling offences), served on him,
 - (ii) in the case of any other offence, served on him or on the person, if any, registered as the keeper of the vehicle at the time of the commission of the offence.
- (2) A notice shall be deemed for the purposes of subsection (1)(c) above to have been served on a person if it was sent by registered post or recorded delivery service addressed to him at his last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by him.
- (3) The requirement of subsection (1) above shall in every case be deemed to have been complied with unless and until the contrary is proved.
- (4) Schedule 1 to this Act shows the offences to which this section applies.

2 Requirement of warning etc: supplementary

- (1) The requirement of section 1(1) of this Act does not apply in relation to an offence if, at the time of the offence or immediately after it, an accident occurs owing to the presence on a road of the vehicle in respect of which the offence was committed.
- (2) The requirement of section 1(1) of this Act does not apply in relation to an offence in respect of which—
 - (a) a fixed penalty notice (within the meaning of Part III of this Act) has been given or fixed under any provision of that Part, or
 - (b) a notice has been given under section 54(4) of this Act.
- (3) Failure to comply with the requirement of section 1(1) of this Act is not a bar to the conviction of the accused in a case where the court is satisfied—
 - (a) that neither the name and address of the accused nor the name and address of the registered keeper, if any, could with reasonable diligence have been ascertained in time for a summons or, as the case may be, a complaint to be served or for a notice to be served or sent in compliance with the requirement, or
 - (b) that the accused by his own conduct contributed to the failure.
- (4) Where a person is prosecuted on indictment in England and Wales—
 - (a) for an offence to which section 1 of this Act does not apply, or
 - (b) for an offence to which that section does apply, but as respects which the requirement of subsection (1) of that section has been satisfied,that subsection does not prejudice any power of the jury on the charge for that offence, if they find him not guilty of it, to find him guilty of an offence under section 2 or 3 of the Road Traffic Act 1988 (reckless driving or careless or inconsiderate driving).
- (5) In Scotland a person may be convicted of an offence under section 2 of that Act by virtue of section 23(1) or (2) of this Act notwithstanding that the requirement of section 1(1) of this Act has not been satisfied as respects that offence.
- (6) A person may be convicted of an offence under section 3 or 29 of that Act (careless and inconsiderate driving or careless and inconsiderate cycling) notwithstanding that the requirement of section 1(1) of this Act has not been satisfied as respects that offence where—
 - (a) the charge for the offence has been preferred against him by virtue of section 24(3) of this Act, and
 - (b) that requirement has been satisfied as respects the alleged offence under section 2 or, as the case may be, 28 of that Act (reckless driving or reckless cycling).

3 Restriction on institution of proceedings for certain offences

- (1) Proceedings for an offence under section 110 or 112(6) of the Road Traffic Act 1988 (driving, or causing or permitting another to drive, an HGV without an HGV driver's licence, or failing to comply with conditions of such a licence) shall not be instituted in England and Wales except—
 - (a) by or on behalf of the Director of Public Prosecutions, or
 - (b) by a person authorised in that behalf by a traffic commissioner (within the meaning of the Public Passenger Vehicles Act 1981), a chief officer of police or the council of a county or county district.

- (2) In England and Wales, proceedings for an offence under section 94(3) of the Road Traffic Act 1988 (notice about relevant or prospective disability) shall not be instituted except by the Secretary of State or by a constable acting with the approval of the Secretary of State.

4 Offences for which local authorities in England and Wales may institute proceedings

- (1) The council of a county, metropolitan district or London Borough or the Common Council of the City of London may institute proceedings for an offence under section 17 or 18 of the Road Traffic Act 1988 (helmets and other head-worn appliances for motor cyclists).
- (2) The council of a county, metropolitan district or London Borough or the Common Council of the City of London may institute proceedings for an offence under section 27 of that Act (dogs on roads) relating to a road in their area.
- (3) The council of a county, district or London borough or the Common Council of the City of London may institute proceedings for offences under section 35(4), (5) or (7) of the Road Traffic Regulation Act 1984 which are committed in connection with parking places provided by the council, or provided under any letting arrangements made by the council under section 33(4) of that Act.
- (4) The council of a county, metropolitan district or London borough or the Common Council of the City of London may institute proceedings for an offence under section 47 or 52 of the Road Traffic Regulation Act 1984 in connection with a designated parking place controlled by the council.
- (5) In England, the council of a county or metropolitan district and, in Wales, the council of a county or district may institute proceedings for an offence under section 53 of the Road Traffic Regulation Act 1984 in connection with a designated parking place in the council's area except, in Wales, any parking place for which another council has responsibility.
- (6) In this section "parking place" means a place where vehicles, or vehicles of any class, may wait and "designated parking place" has the same meaning as in the Road Traffic Regulation Act 1984.
- (7) This section extends to England and Wales only.

5 Exemption from Licensing Act offence

A person liable to be charged with an offence under section 4, 5, 7 or 30 of the Road Traffic Act 1988 (drink and drugs) is not liable to be charged under section 12 of the Licensing Act 1872 with the offence of being drunk while in charge, on a highway or other public place, of a carriage.

6 Time within which summary proceedings for certain offences must be commenced

- (1) Subject to subsection (2) below, summary proceedings for an offence to which this section applies may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

- (2) No such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.
- (3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (5) In relation to proceedings in Scotland, subsection (3) of section 331 of the Criminal Procedure (Scotland) Act 1975 (date of commencement of proceedings) shall apply for the purposes of this section as it applies for the purposes of that.
- (6) Schedule 1 to this Act shows the offences to which this section applies.

7 Duty of accused to provide licence

A person who is prosecuted for an offence involving obligatory endorsement and who is the holder of a licence must—

- (a) cause it to be delivered to the clerk of the court not later than the day before the date appointed for the hearing, or
- (b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or
- (c) have it with him at the hearing.

8 Duty to include date of birth and sex in written plea of guilty

A person who—

- (a) gives a notification to the clerk of a court in pursuance of section 12(2) of the Magistrates' Courts Act 1980 (written pleas of guilty), or
- (b) gives a written intimation of a plea of guilty in pursuance of section 334(3) of the Criminal Procedure (Scotland) Act 1975,

in respect of an offence involving obligatory or discretionary disqualification or of such other offence as may be prescribed by regulations under section 105 of the Road Traffic Act 1988, must include in the notification or intimation a statement of the date of birth and sex of the accused.

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
 - (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

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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

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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
 - (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.

Verdict

23 Alternative verdicts in Scotland

- (1) If on the trial on indictment in Scotland of a person for culpable homicide in connection with the driving of a motor vehicle by him the jury are not satisfied that he is guilty of culpable homicide but are satisfied that he is guilty of an offence under section 2 of the Road Traffic Act 1988 (reckless driving), they may find him guilty of that offence.
- (2) If on the trial in Scotland of a person for an offence under section 1 of that Act (causing death by reckless driving) the jury are not satisfied that his driving was the cause of the death but are satisfied that he is guilty of an offence under section 2 of that Act, they may convict him of that offence.
- (3) If on the trial on indictment in Scotland of a person for stealing a motor vehicle the jury are not satisfied that he is guilty of stealing the motor vehicle but are satisfied that he is guilty of an offence under section 178 of that Act (taking motor vehicle without authority etc.), they may find him guilty of an offence under that section.

24 Alternative verdicts in England and Wales

- (1) Where on a person's trial on indictment in England and Wales for an offence under section 1 (causing death by reckless driving), 2 (reckless driving) or 28 (reckless cycling) of the Road Traffic Act 1988 the jury find him not guilty of the offence specifically charged in the indictment, they may (without prejudice to section 6(3) of the Criminal Law Act 1967) find him guilty—
 - (a) where the offence so charged is an offence under section 1 or 2 of the Road Traffic Act 1988, of an offence under section 3 (careless and inconsiderate driving) of that Act, or
 - (b) where the offence so charged is an offence under section 28 of that Act, of an offence under section 29 (careless and inconsiderate cycling) of that Act.
- (2) The Crown Court has the like powers and duties in the case of a person who is by virtue of subsection (1) above convicted before it of an offence under section 3 or 29 of that Act as a magistrates' court would have had on convicting him of that offence.
- (3) Where—
 - (a) a person is charged in England and Wales before a magistrates' court with an offence under section 2 or 28 of that Act, and
 - (b) the court is of the opinion that the offence is not proved,then, at any time during the hearing or immediately after it the court may (without prejudice to any other powers possessed by the court) direct or allow a charge for an offence under section 3 or, as the case may be, section 29 of that Act to be preferred forthwith against the defendant and may thereupon proceed with that charge.
- (4) Where a magistrates' court exercises the power conferred by subsection (3) above—
 - (a) the defendant or his solicitor or counsel must be informed of the new charge and be given an opportunity, whether by way of cross-examining any witness whose evidence has already been given against the defendant or otherwise, of answering the new charge, and
 - (b) the court must, if it considers that the defendant is prejudiced in his defence by reason of the new charge's being so preferred, adjourn the hearing.

After conviction

25 Information as to date of birth and sex

- (1) If on convicting a person of an offence involving obligatory or discretionary disqualification or of such other offence as may be prescribed by regulations under section 105 of the Road Traffic Act 1988 the court does not know his date of birth, the court must order him to give that date to the court in writing.
- (2) If a court convicting a person of such an offence in a case where—
 - (a) notification has been given to the clerk of a court in pursuance of section 12(2) of the Magistrates' Courts Act 1980 (written pleas of guilty), or written intimation of a plea of guilty has been given in pursuance of section 334(3) of the Criminal Procedure (Scotland) Act 1975, and
 - (b) the notification or intimation did not include a statement of the person's sex, does not know the person's sex, the court must order the person to give that information to the court in writing.
- (3) A person who knowingly fails to comply with an order under subsection (1) or (2) above is guilty of an offence.
- (4) Nothing in section 56(5) of the Criminal Justice Act 1967 (where magistrates' court commits a person to the Crown Court to be dealt with, certain powers and duties transferred to that court) applies to any duty imposed upon a magistrates' court by subsection (1) or (2) above.
- (5) Where a person has given his date of birth in accordance with this section or section 8 of this Act, the Secretary of State may serve on that person a notice in writing requiring him to provide the Secretary of State—
 - (a) with such evidence in that person's possession or obtainable by him as the Secretary of State may specify for the purpose of verifying that date, and
 - (b) if his name differs from his name at the time of his birth, with a statement in writing specifying his name at that time.
- (6) A person who knowingly fails to comply with a notice under subsection (5) above is guilty of an offence.
- (7) A notice to be served on any person under subsection (5) above may be served on him by delivering it to him or by leaving it at his proper address or by sending it to him by post; and for the purposes of this subsection and section 7 of the Interpretation Act 1978 in its application to this subsection the proper address of any person shall be his latest address as known to the person serving the notice.

26 Interim disqualification on committal for sentence in England and Wales

- (1) Where a magistrates' court—
 - (a) commits an offender to the Crown Court under subsection (1) of section 56 of the Criminal Justice Act 1967 or any enactment to which that section applies, and
 - (b) by reason of the provisions of that section the magistrates' court does not exercise its power or discharge its duty under section 34, 35 or 36 of this Act of ordering the offender to be disqualified,

Status: This is the original version (as it was originally enacted).

it may nevertheless order him to be disqualified until the court to which he is committed has dealt with him in respect of the offence.

- (2) Where a court makes an order under subsection (1) above in respect of any person, it must require him to produce to the court any licence held by him and must cause such licence to be sent to the clerk of the court to which he is committed.
- (3) A person who fails to comply with a requirement under subsection (2) above is guilty of an offence.
- (4) Subsection (3) above does not apply to a person who—
 - (a) surrenders to the court a current receipt for his licence issued under section 56 of this Act, and
 - (b) produces the licence to the court immediately on its return.
- (5) Where a court makes an order under subsection (1) above in respect of any person, sections 44(1) and 47(2) of this Act and section 109(3) of the Road Traffic Act 1988 (Northern Ireland drivers' licences) shall not apply in relation to the order, but—
 - (a) the court must send notice of the order to the Secretary of State, and
 - (b) the court to which he is committed must, if it determines not to order him to be disqualified under section 34, 35 or 36 of this Act, send notice of the determination to the Secretary of State.
- (6) A period of disqualification imposed on any person by virtue of section 56(5) of the Criminal Justice Act 1967 (exercise by Crown Court on committal for sentence of certain powers of magistrates' courts) shall be treated as reduced by any period during which he was disqualified by reason only of an order made under subsection (1) above; but a period during which he was so disqualified shall not be taken into account under this subsection for the purpose of reducing more than one other period of disqualification.
- (7) A notice sent by a court to the Secretary of State in pursuance of subsection (5) above must be sent in such manner and to such address and contain such particulars as the Secretary of State may determine.