



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART III

FIXED PENALTIES

Modifications etc. (not altering text)

C1 Pt. III (ss. 51–90) amended by (E.W.) S.I. 1990/335, art. 2(1) and (S.) S.I. 1990/466, art. 2(1)

Introductory

51 Fixed penalty offences.

- (1) Any offence in respect of a vehicle under an enactment specified in column 1 of Schedule 3 to this Act is a fixed penalty offence for the purposes of this Part of this Act, but subject to subsection (2) below and to any limitation or exception shown against the enactment in column 2 (where the general nature of the offence is also indicated).
- (2) An offence under an enactment so specified is not a fixed penalty offence for those purposes if it is committed by causing or permitting a vehicle to be used by another person in contravention of any provision made or restriction or prohibition imposed by or under any enactment.
- (3) The Secretary of State may by order provide for offences to become or (as the case may be) to cease to be fixed penalty offences for the purposes of this Part of this Act, and may make such modifications of the provisions of this Part of this Act as appear to him to be necessary for the purpose.

52 Fixed penalty notices.

- (1) In this Part of this Act “fixed penalty notice” means a notice offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty in accordance with this Part of this Act.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are prospective.
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- (2) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.
- (3) A fixed penalty notice must state—
 - (a) the period during which, by virtue of section 78(1) of this Act, proceedings cannot be brought against any person for the offence to which the notice relates, being the period of twenty-one days following the date of the notice or such longer period (if any) as may be specified in the notice (referred to in this Part of this Act as the “suspended enforcement period”),
 - (b) the amount of the fixed penalty, and
 - (c) the justices’ clerk or, in Scotland, the clerk of court to whom and the address at which the fixed penalty may be paid.
- (4) A fixed penalty notice given under section 54(2) of this Act in respect of an offence committed in Scotland must be in the prescribed form.

53 Amount of fixed penalty.

- (1) The fixed penalty for an offence is—
 - (a) the amount mentioned in subsection (2) below, or
 - (b) one-half of the maximum amount of the fine to which a person committing that offence would be liable on summary conviction,
 whichever is the less.
- (2) The amount referred to in subsection (1)(a) above is—
 - (a) [^{F1}£32] in the case of any offence involving obligatory endorsement, and
 - (b) [^{F1}£16] in any other case.
- (3) The Secretary of State may by order substitute a different amount or amounts for either or both of the amounts for the time being specified in subsection (2) above.

Textual Amendments

F1 Figure substituted (E.W.) by [S.I. 1990/334, art. 2](#) and (S.) by [S.I. 1990/467, arts. 2, 3](#)

Giving notices to suspected offenders

54 Notices on-the-spot or at a police station.

- (1) This section applies where on any occasion a constable in uniform has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence.
- (2) Subject to subsection (3) below, the constable may give him a fixed penalty notice in respect of the offence.
- (3) Where the offence appears to the constable to involve obligatory endorsement, the constable may only give him a fixed penalty notice under subsection (2) above in respect of the offence if—
 - (a) he produces his licence [^{F2}and its counterpart] for inspection by the constable,

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- (b) the constable is satisfied, on inspecting the licence [F²and its counterpart], that he would not be liable to be disqualified under section 35 of this Act if he were convicted of that offence, and
 - (c) he surrenders his licence [F²and its counterpart] to the constable to be retained and dealt with in accordance with this Part of this Act.
- (4) Where—
- (a) the offence appears to the constable to involve obligatory endorsement, and
 - (b) the person concerned does not produce his licence [F³and its counterpart] for inspection by the constable,
- the constable may give him a notice stating that if, within seven days after the notice is given, he produces the notice together with his licence [F⁴and its counterpart] in person to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned) and the requirements of subsection (5) (a) and (b) below are met he will then be given a fixed penalty notice in respect of the offence.
- (5) If a person to whom a notice has been given under subsection (4) above produces the notice together with his licence [F⁵and its counterpart] in person to a constable or authorised person at the police station specified in the notice within seven days after the notice was so given to him and the following requirements are met, that is—
- (a) the constable or authorised person is satisfied, on inspecting the licence [F⁶and its counterpart], that he would not be liable to be disqualified under section 35 of this Act if he were convicted of the offence, and
 - (b) he surrenders his licence [F⁷and its counterpart] to the constable or authorised person to be retained and dealt with in accordance with this Part of this Act,
- the constable or authorised person must give him a fixed penalty notice in respect of the offence to which the notice under subsection (4) above relates.
- (6) A notice under subsection (4) above shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.
- (7) A licence [F⁸and a counterpart of a licence] surrendered in accordance with this section must be sent to the fixed penalty clerk.
- (8) Subsection (4) above does not apply in respect of offences committed in Scotland and a notice under that subsection may not specify a police station in Scotland.
- (9) In this Part of this Act “authorised person”, in relation to a fixed penalty notice given at a police station, means a person authorised for the purposes of this section by or on behalf of the chief officer of police for the area in which the police station is situated.

Textual Amendments

- F2** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 15(a)
- F3** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 15(b)(i)
- F4** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 15(b)(ii)
- F5** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 15(c)(i)
- F6** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 15(c)(ii)
- F7** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 15(c)(iii)
- F8** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 15(d)

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55 Effect of fixed penalty notice given under section 54.

- (1) This section applies where a fixed penalty notice relating to an offence has been given to any person under section 54 of this Act, and references in this section to the recipient are to the person to whom the notice was given.
- (2) No proceedings shall be brought against the recipient for the offence to which the fixed penalty notice relates unless before the end of the suspended enforcement period he has given notice requesting a hearing in respect of that offence in the manner specified in the fixed penalty notice.
- (3) Where—
 - (a) the recipient has not given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates in the manner so specified, and
 - (b) the fixed penalty has not been paid in accordance with this Part of this Act before the end of the suspended enforcement period,
 a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 71 of this Act for enforcement against the recipient as a fine.

56 Licence receipts.

- (1) A constable or authorised person to whom a person surrenders his licence [^{F9}and its counterpart] on receiving a fixed penalty notice given to him under section 54 of this Act must issue a receipt for the licence [^{F9}and its counterpart] under this section.
- (2) The fixed penalty clerk may, on the application of a person who has surrendered his licence [^{F10}and its counterpart] in those circumstances, issue a new receipt for [^{F11}them].
- (3) A receipt issued under this section ceases to have effect—
 - (a) if issued by a constable or authorised person, on the expiration of the period of one month beginning with the date of issue or such longer period as may be prescribed, and
 - (b) if issued by the fixed penalty clerk, on such date as he may specify in the receipt,
 or, if earlier, on the return of the licence [^{F12}and its counterpart] to the licence holder.

Textual Amendments

- F9** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 16(a)(i)(ii)
F10 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 16(b)(i)(ii)
F11 Word substituted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 16(b)(i)(ii)
F12 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 16(c)

57 Endorsement of licences without hearings.

- (1) Subject to subsection (2) below, where a person (referred to in this section as “the licence holder”) has surrendered his licence [^{F13}and its counterpart] to a constable or authorised person on the occasion when he was given a fixed penalty notice under section 54 of this Act, [^{F13}the counterpart of] his licence may be endorsed in accordance with this section without any order of a court.

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- (2) ^{F14}The counterpart of] A person's licence may not be endorsed under this section if at the end of the suspended enforcement period—
- (a) he has given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of the offence to which the fixed penalty notice relates, and
 - (b) the fixed penalty has not been paid in accordance with this Part of this Act.
- (3) On the payment of the fixed penalty before the end of the suspended enforcement period, the fixed penalty clerk must endorse the relevant particulars on the ^{F15}counterpart of the] licence and return it ^{F15}together with the licence] to the licence holder.
- (4) Where any sum determined by reference to the fixed penalty is registered under section 71 of this Act for enforcement against the licence holder as a fine, the fixed penalty clerk must endorse the relevant particulars on the ^{F15}counterpart of the] licence and return it ^{F15}together with the licence] to the licence holder—
- (a) if he is himself the clerk who registers that sum, on the registration of that sum, and
 - (b) in any other case, on being notified of the registration by the clerk who registers that sum.
- (5) References in this section 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.
- (6) On endorsing ^{F16}the counterpart of] a person's licence under this section the fixed penalty clerk must send notice of the endorsement and of the particulars endorsed to the Secretary of State.

Textual Amendments

- F13** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 17(a)(i)(ii)
F14 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 17(b)
F15 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 17(c)(i)(ii)
F16 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 17(d)

58 Effect of endorsement without hearing.

- (1) Where ^{F17}the counterpart of] a person's licence is endorsed under section 57 of this Act he shall be treated for the purposes of sections 13(4), 28, 29 and 45 of this Act and of the ^{M1}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 57(5)(a) of this Act were particulars of his conviction of that offence.
- (2) In relation to any endorsement of ^{F18}the counterpart of] a person's licence under section 57 of this Act—
- (a) the reference in section 45(4) of this Act to the order for endorsement, and

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(b) 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.

Textual Amendments

F17 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 18(a)**

F18 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 18(b)**

Marginal Citations

M1 1974 c. 53.

PROSPECTIVE

^{F19}59 Notification of court and date of trial in England and Wales.

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Textual Amendments

F19 S. 59 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

60 Court procedure in Scotland.

- (1) Where a person is given a fixed penalty notice under section 54(2) of this Act in respect of an offence committed in Scotland, he may be given written notification specifying the court at which and the date on which the case will first call if he gives notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice.
- (2) Such written notification may either be included in the fixed penalty notice or be given to the person when he is given the fixed penalty notice.
- (3) Where—
 - (a) a person has been notified in accordance with this section of the court and date of first calling of a case concerning an offence in respect of which he has been given a fixed penalty notice, and
 - (b) he has given notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice,
 the following provisions of this section apply for the purpose of any proceedings in respect of the offence.
- (4) The notification of the court and date of first calling shall have effect as if it were a citation to an accused person by virtue of section 315 of the ^{M2}Criminal Procedure (Scotland) Act 1975 notwithstanding that such notification may not be in the form referred to in subsection (2) of that section.
- (5) A copy of the fixed penalty notice given under section 54(2) of this Act shall have effect as if it were a complaint under Part II of that Act, and the provisions of that Part shall accordingly apply—

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- (a) to the copy fixed penalty notice as if it were a complaint, and
 - (b) to the fixed penalty notice as if it were a copy complaint served on the accused under that Part.
- (6) For the purposes of subsection (5) above—
- (a) it is not necessary for the fixed penalty notice to be signed by the prosecutor or by a solicitor on behalf of a prosecutor other than the public prosecutor of a court,
 - (b) a copy fixed penalty notice having effect as if it were a complaint shall not be held to be irrelevant by reason only—
 - (i) that the charge in the fixed penalty notice is not in the form referred to in section 312 of that Act, or
 - (ii) that no further specification is given than the specification required for a fixed penalty notice by section 52(2) of this Act,and without prejudice to the generality of subsection (5) above, paragraphs (a) to (z) of section 312 of that Act shall apply in respect of the charge referred to in sub-paragraph (i) above, and
 - (c) section 311(5) of that Act shall not apply in respect of a copy fixed penalty notice having effect as if it were a complaint, but there shall be given to the alleged offender along with the fixed penalty notice a notice stating the penalties to which he would be liable in the event of his conviction for the offence.

Marginal Citations

M2 1975 c. 21.

61 Fixed penalty notice mistakenly given: exclusion of fixed penalty procedures.

- (1) This section applies where, on inspection of a licence [^{F20}and its counterpart] sent to him under section 54(7) of this Act, it appears to the fixed penalty clerk that the person whose licence it is 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 fixed penalty clerk must not endorse the [^{F21}counterpart of the] licence under section 57 of this Act but must instead send it [^{F21}together with the licence] to the chief officer of police.
- (3) 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.
- (4) 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.
- (5) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of any provision of this Part of this Act by reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision—

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- (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 whose licence it is as a fine, 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)).

Textual Amendments

F20 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 19(a)

F21 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 19(b)(i)(ii)

Notices fixed to vehicles

62 Fixing notices to vehicles.

- (1) Where on any occasion a constable has reason to believe in the case of any stationary vehicle that a fixed penalty offence is being or has on that occasion been committed in respect of it, he may fix a fixed penalty notice in respect of the offence to the vehicle unless the offence appears to him to involve obligatory endorsement.
- (2) A person is guilty of an offence if he removes or interferes with any notice fixed to a vehicle under this section, unless he does so by or under the authority of the driver or person in charge of the vehicle or the person liable for the fixed penalty offence in question.

63 Service of notice to owner if penalty not paid.

- (1) This section applies where a fixed penalty notice relating to an offence has been fixed to a vehicle under section 62 of this Act.
- (2) Subject to subsection (3) below, if at the end of the suspended enforcement period the fixed penalty has not been paid in accordance with this Part of this Act, a notice under this section may be served by or on behalf of the chief officer of police on any person who appears to him (or to any person authorised to act on his behalf for the purposes of this section) to be the owner of the vehicle.

Such a notice is referred to in this Part of this Act as a “notice to owner”.

- (3) Subsection (2) above does not apply where before the end of the suspended enforcement period—
 - (a) any person has given notice requesting a hearing in respect of the offence in the manner specified in the fixed penalty notice, and
 - (b) the notice so given contains a statement by that person to the effect that he was the driver of the vehicle at the time when the offence is alleged to have been committed.

That time is referred to in this Part of this Act as the “time of the alleged offence”.

- (4) A notice to owner—
 - (a) must give particulars of the alleged offence and of the fixed penalty concerned,
 - (b) must state the period allowed for response to the notice, and

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- (c) must indicate that, if the fixed penalty is not paid before the end of that period, the person on whom the notice is served is asked to provide before the end of that period to the chief officer of police by or on whose behalf the notice was served a statutory statement of ownership (as defined in Part I of Schedule 4 to this Act).
- (5) For the purposes of this Part of this Act, the period allowed for response to a notice to owner is the period of twenty-one days from the date on which the notice is served, or such longer period (if any) as may be specified in the notice.
- (6) A notice to owner relating to any offence must indicate that the person on whom it is served may, before the end of the period allowed for response to the notice, either—
 - (a) give notice requesting a hearing in respect of the offence in the manner indicated by the notice, or
 - (b) if—
 - (i) he was not the driver of the vehicle at the time of the alleged offence, and
 - (ii) a person purporting to be the driver wishes to give notice requesting a hearing in respect of the offence,provide, together with a statutory statement of ownership provided as requested in that notice, a statutory statement of facts (as defined by Part II of Schedule 4 to this Act) having the effect referred to in paragraph 3(2) of that Schedule (that is, as a notice requesting a hearing in respect of the offence given by the driver).
- (7) In any case where a person on whom a notice to owner relating to any offence has been served provides a statutory statement of facts in pursuance of subsection (6)(b) above—
 - (a) any notice requesting a hearing in respect of the offence that he purports to give on his own account shall be of no effect, and
 - (b) no sum may be registered for enforcement against him as a fine in respect of the offence unless, within the period of two months immediately following the period allowed for response to the notice to owner, no summons or, in Scotland, complaint in respect of the offence in question is served on the person identified in the statement as the driver.

64 Enforcement or proceedings against owner.

- (1) This section applies where—
 - (a) a fixed penalty notice relating to an offence has been fixed to a vehicle under section 62 of this Act,
 - (b) a notice to owner relating to the offence has been served on any person under section 63(2) of this Act before the end of the period of six months beginning with the day on which the fixed penalty notice was fixed to the vehicle, and
 - (c) the fixed penalty has not been paid in accordance with this Part of this Act before the end of the period allowed for response to the notice to owner.
- (2) Subject to subsection (4) below and to section 63(7)(b) of this Act, a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under section 71 of this Act for enforcement against the person on whom the notice to owner was served as a fine.

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- (3) Subject to subsection (4) below and to section 65 of this Act, proceedings may be brought in respect of the offence against the person on whom the notice to owner was served.
- (4) If the person on whom the notice to owner was served—
- (a) was not the owner of the vehicle at the time of the alleged offence, and
 - (b) provides a statutory statement of ownership to that effect in response to the notice before the end of the period allowed for response to the notice,
- he shall not be liable in respect of the offence by virtue of this section nor shall any sum determined by reference to the fixed penalty for the offence be so registered by virtue of this section for enforcement against him as a fine.
- (5) Subject to subsection (6) below—
- (a) for the purposes of the institution of proceedings by virtue of subsection (3) above against any person on whom a notice to owner has been served, and
 - (b) in any proceedings brought by virtue of that subsection against any such person,
- it shall be conclusively presumed (notwithstanding that that person may not be an individual) that he was the driver of the vehicle at the time of the alleged offence and, accordingly, that acts or omissions of the driver of the vehicle at that time were his acts or omissions.
- (6) That presumption does not apply in any proceedings brought against any person by virtue of subsection (3) above if, in those proceedings, it is proved that at the time of the alleged offence the vehicle was in the possession of some other person without the consent of the accused.
- (7) Where—
- (a) by virtue of subsection (3) above proceedings may be brought in respect of an offence against a person on whom a notice to owner was served, and
 - (b) section 74(1) of this Act does not apply,
- section 127(1) of the ^{M3}Magistrates' Courts Act 1980 (information must be laid within six months of time offence committed) and section 331(1) of the ^{M4}Criminal Procedure (Scotland) Act 1975 (proceedings must be commenced within six months of that time) shall have effect as if for the reference to six months there were substituted a reference to twelve months.

Marginal Citations

M3 1980 c. 43.

M4 1975 c. 21.

65 Restrictions on proceedings against owner and others.

- (1) In any case where a notice to owner relating to an offence may be served under section 63 of this Act, no proceedings shall be brought in respect of the offence against any person other than a person on whom such a notice has been served unless he is identified as the driver of the vehicle at the time of the alleged offence in a statutory statement of facts provided in pursuance of section 63(6)(b) of this Act by a person on whom such a notice has been served.

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- (2) Proceedings in respect of an offence to which a notice to owner relates shall not be brought against the person on whom the notice was served unless, before the end of the period allowed for response to the notice, he has given notice, in the manner indicated by the notice to owner, requesting a hearing in respect of the offence.
- (3) Proceedings in respect of an offence to which a notice to owner relates may not be brought against any person identified as the driver of the vehicle in a statutory statement of facts provided in response to the notice if the fixed penalty is paid in accordance with this Part of this Act before the end of the period allowed for response to the notice.
- (4) Once any sum determined by reference to the fixed penalty for an offence has been registered by virtue of section 64 of this Act under section 71 for enforcement as a fine against a person on whom a notice to owner relating to that offence has been served, no proceedings shall be brought against any other person in respect of that offence.

66 **Hired vehicles.**

- (1) This section applies where—
 - (a) a notice to owner has been served on a vehicle-hire firm,
 - (b) at the time of the alleged offence the vehicle in respect of which the notice was served was let to another person by the vehicle-hire firm under a hiring agreement to which this section applies, and
 - (c) within the period allowed for response to the notice the firm provides the chief officer of police by or on whose behalf the notice was served with the documents mentioned in subsection (2) below.
- (2) Those documents are a statement on an official form, signed by or on behalf of the firm, stating that at the time of the alleged offence the vehicle concerned was hired under a hiring agreement to which this section applies, together with—
 - (a) a copy of that hiring agreement, and
 - (b) a copy of a statement of liability signed by the hirer under that hiring agreement.
- (3) In this section a “statement of liability” means a statement made by the hirer under a hiring agreement to which this section applies to the effect that the hirer acknowledges that he will be liable, as the owner of the vehicle, in respect of any fixed penalty offence which may be committed with respect to the vehicle during the currency of the hiring agreement and giving such information as may be prescribed.
- (4) In any case where this section applies, sections 63, 64 and 65 of this Act shall have effect as if—
 - (a) any reference to the owner of the vehicle were a reference to the hirer under the hiring agreement, and
 - (b) any reference to a statutory statement of ownership were a reference to a statutory statement of hiring,

and accordingly references in this Part of this Act (with the exceptions mentioned below) to a notice to owner include references to a notice served under section 63 of this Act as it applies by virtue of this section.

This subsection does not apply to references to a notice to owner in this section or in section 81(2)(b) of or Part I of Schedule 4 to this Act.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are prospective.
Changes to legislation: Road Traffic Offenders Act 1988, Part III is up to date with all changes known to be in force on or before 29 April 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)

- (5) In any case where this section applies, a person authorised in that behalf by the chief officer of police to whom the documents mentioned in subsection (2) above are provided may, at any reasonable time within six months after service of the notice to owner (and on the production of his authority) require the firm to produce the originals of the hiring agreement and statement of liability in question.
- (6) If a vehicle-hire firm fails to produce the original of a document when required to do so under subsection (5) above, this section shall thereupon cease to apply (and section 64 of this Act shall apply accordingly in any such case after that time as it applies in a case where the person on whom the notice to owner was served has failed to provide a statutory statement of ownership in response to the notice within the period allowed).
- (7) This section applies to a hiring agreement under the terms of which the vehicle concerned is let to the hirer for a fixed period of less than six months (whether or not that period is capable of extension by agreement between the parties or otherwise); and any reference in this section to the currency of the hiring agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of the fixed period specified in the agreement, but otherwise on the terms and conditions so specified.
- (8) In this section—
 “hiring agreement” refers only to an agreement which contains such particulars as may be prescribed and does not include a hire-purchase agreement within the meaning of the ^{M5}Consumer Credit Act 1974, and
 “vehicle-hire firm” means any person engaged in hiring vehicles in the course of a business.

Marginal Citations

M5 1974 c. 39.

67 False statements in response to notices to owner.

A person who, in response to a notice to owner, provides a statement which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.

68 “Owner”, “statutory statement” and “official form”.

- (1) For the purposes of this Part of this Act, the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and for the purposes of determining, in the course of any proceedings brought by virtue of section 64(3) of this Act, who was the owner of a vehicle at any time, it shall be presumed that the owner was the person who was the registered keeper of the vehicle at that time.
- (2) Notwithstanding the presumption in subsection (1) above, it is open to the defence in any proceedings to prove that the person who was the registered keeper of a vehicle at a particular time was not the person by whom the vehicle was kept at that time and to the prosecution to prove that the vehicle was kept by some other person at that time.
- (3) References in this Part of this Act to statutory statements of any description are references to the statutory statement of that description defined in Schedule 4 to this

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Act; and that Schedule shall also have effect for the purpose of requiring certain information to be provided in official forms for the statutory statements so defined to assist persons in completing those forms and generally in determining what action to take in response to a notice to owner.

- (4) In this Part of this Act “official form”, in relation to a statutory statement mentioned in Schedule 4 to this Act or a statement under section 66(2) of this Act, means a document supplied by or on behalf of a chief officer of police for use in making that statement.

The fixed penalty procedure

69 Payment of penalty.

- (1) Payment of a fixed penalty under this Part of this Act must be made to such justices’ clerk or, in Scotland, clerk of court as may be specified in the fixed penalty notice relating to that penalty.
- (2) Without prejudice to payment by any other method, payment of a fixed penalty under this Part of this Act may be made by properly addressing, pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) and, unless the contrary is proved, shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (3) A letter is properly addressed for the purposes of subsection (2) above if it is addressed to the fixed penalty clerk at the address specified in the fixed penalty notice relating to the fixed penalty as the address at which the fixed penalty may be paid.
- (4) References in this Part of this Act, in relation to any fixed penalty or fixed penalty notice, to the fixed penalty clerk are references to the clerk specified in accordance with subsection (1) above in the fixed penalty notice relating to that penalty or (as the case may be) in that fixed penalty notice.

70 Registration certificates.

- (1) This section and section 71 of this Act apply where by virtue of section 55(3) or 64(2) of this Act a sum determined by reference to the fixed penalty for any offence may be registered under section 71 of this Act for enforcement against any person as a fine.

In this section and section 71 of this Act—

- (a) that sum is referred to as a “sum payable in default”, and
- (b) the person against whom that sum may be so registered is referred to as the “defaulter”.
- (2) Subject to subsection (3) below, the chief officer of police may in respect of any sum payable in default issue a certificate (referred to in this section and section 71 as a “registration certificate”) stating that the sum is registrable under section 71 for enforcement against the defaulter as a fine.
- (3) Where the fixed penalty notice in question was given to the defaulter under section 54 in respect of an offence committed in Scotland—
- (a) subsection (2) above does not apply, but
- (b) the fixed penalty clerk must, unless the defaulter appears to him to reside within the jurisdiction of the court of summary jurisdiction of which he is

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himself the clerk, issue a registration certificate in respect of the sum payable in default.

- (4) Where the chief officer of police or the fixed penalty clerk issues a registration certificate under this section, he must—
- (a) if the defaulter appears to him to reside in England and Wales, cause it to be sent to the clerk to the justices for the petty sessions area in which the defaulter appears to him to reside, and
 - (b) if the defaulter appears to him to reside in Scotland, cause it to be sent to the clerk of a court of summary jurisdiction for the area in which the defaulter appears to him to reside.
- (5) A registration certificate issued under this section in respect of any sum payable in default must—
- (a) give particulars of the offence to which the fixed penalty notice relates,
 - (b) indicate whether registration is authorised under section 55(3) or 64(2) of this Act, and
 - (c) state the name and last known address of the defaulter and the amount of the sum payable in default.

71 Registration of sums payable in default.

- (1) Where the clerk to the justices for a petty sessions area receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default, he must, subject to subsection (4) below, register that sum for enforcement as a fine in that area by entering it in the register of a magistrates' court acting for that area.
- (2) Where the clerk of a court of summary jurisdiction receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default, he must, subject to subsection (4) below, register that sum for enforcement as a fine by that court.
- (3) Where—
- (a) the fixed penalty notice in question was given to the defaulter under section 54 of this Act in respect of an offence committed in Scotland, and
 - (b) the defaulter appears to the fixed penalty clerk to reside within the jurisdiction of the court of summary jurisdiction of which he is himself the clerk,
- the fixed penalty clerk must register the sum payable in default for enforcement as a fine by that court.
- (4) Where it appears to the clerk receiving a registration certificate issued under section 70 of this Act in respect of any sum payable in default that the defaulter does not reside in the petty sessions area or (as the case may be) within the jurisdiction of the court of summary jurisdiction in question—
- (a) he is not required by subsection (1) or (2) above to register that sum, but
 - (b) he must cause the certificate to be sent to the appropriate clerk,
- and subsection (1) or, as the case may be, (2) above shall apply accordingly on receipt by the appropriate clerk of the certificate as it applies on receipt by the clerk to whom it was originally sent.
- (5) For the purposes of subsection (4) above, the appropriate clerk—

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- (a) if the defaulter appears to the clerk receiving the registration certificate to reside in England and Wales, is the clerk to the justices for the petty sessions area in which the defaulter appears to him to reside, and
 - (b) if the defaulter appears to the clerk receiving the registration certificate to reside in Scotland, is the clerk of a court of summary jurisdiction for the area in which the defaulter appears to him to reside.
- (6) On registering any sum under this section for enforcement as a fine, the clerk to the justices for a petty sessions area or, as the case may be, the clerk of a court of summary jurisdiction must give to the defaulter notice of registration—
 - (a) specifying the amount of that sum, and
 - (b) giving the information with respect to the offence and the authority for registration included in the registration certificate by virtue of section 70(5)(a) and (b) of this Act or (in a case within subsection (3) above) the corresponding information.
- (7) On the registration of any sum in a magistrates' court or a court of summary jurisdiction by virtue of this section any enactment referring (in whatever terms) to a fine imposed or other sum adjudged to be paid on the conviction of such a court shall have effect in the case in question as if the sum so registered were a fine imposed by that court on the conviction of the defaulter on the date of the registration.
- (8) Accordingly, in the application by virtue of this section of the provisions of the ^{M6}Magistrates' Courts Act 1980 relating to the satisfaction and enforcement of sums adjudged to be paid on the conviction of a magistrates' court, section 85 of that Act (power to remit a fine in whole or in part) is not excluded by subsection (2) of that section (references in that section to a fine not to include any other sum adjudged to be paid on a conviction) from applying to a sum registered in a magistrates' court by virtue of this section.
- (9) For the purposes of this section, where the defaulter is a body corporate, the place where that body resides and the address of that body are either of the following—
 - (a) the registered or principal office of that body, and
 - (b) the address which, with respect to the vehicle concerned, is the address recorded in the record kept under the ^{M7}Vehicles (Excise) Act 1971 as being that body's address.

Marginal Citations

M6 1980 c. 43.

M7 1971 c. 10.

72 Notices on-the-spot or at a police station: when registration and endorsement invalid.

- (1) This section applies where—
 - (a) a person who has received notice of the registration, by virtue of section 55(3) of this Act, of a sum under section 71 of this Act for enforcement against him as a fine makes a statutory declaration to the effect mentioned in subsection (2) below, and

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- (b) that declaration is, within twenty-one days of the date on which the person making it received notice of the registration, served on the clerk of the relevant court.
- (2) The statutory declaration must state—
- (a) that the person making the declaration was not the person to whom the relevant fixed penalty notice was given, or
 - (b) that he gave notice requesting a hearing in respect of the alleged offence as permitted by the fixed penalty notice before the end of the suspended enforcement period.
- (3) In any case within subsection (2)(a) above, the relevant fixed penalty notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void.
- (4) Where in any case within subsection (2)(a) above the person to whom the relevant fixed penalty notice was given surrendered a licence [^{F22}and its counterpart] held by the person making the declaration, any endorsement of [^{F23}that counterpart] made under section 57 of this Act in respect of the offence in respect of which that notice was given shall be void.
- (5) In any case within subsection (2)(b) above—
- (a) the registration, any proceedings taken before the declaration was served for enforcing payment of the sum registered, and any endorsement, in respect of the offence in respect of which the relevant fixed penalty notice was given, made under section 57 of this Act before the declaration was served, shall be void, and
 - (b) the case shall be treated after the declaration is served as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.
- (6) The clerk of the relevant court must—
- (a) cancel an endorsement of [^{F24}the counterpart of] a licence under section 57 of this Act that is void by virtue of this section on production of the licence [^{F24}and its counterpart] to him for that purpose, and
 - (b) send notice of the cancellation to the Secretary of State.
- (7) References in this section to the relevant fixed penalty notice are to the fixed penalty notice relating to the fixed penalty concerned.

Textual Amendments

F22 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 20(a)(i)(ii)

F23 Words substituted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 20(a)(i)(ii)

F24 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 20(b)(i)(ii)

73 Notices fixed to vehicles: when registration invalid.

- (1) This section applies where—
- (a) a person who has received notice of the registration, by virtue of section 64(2) of this Act, of a sum under section 71 of this Act for enforcement against him

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as a fine makes a statutory declaration to the effect mentioned in subsection (2) below, and

- (b) that declaration is, within twenty-one days of the date on which the person making it received notice of the registration, served on the clerk of the relevant court.

(2) The statutory declaration must state either—

- (a) that the person making the declaration did not know of the fixed penalty concerned or of any fixed penalty notice or notice to owner relating to that penalty until he received notice of the registration, or
- (b) that he was not the owner of the vehicle at the time of the alleged offence of which particulars are given in the relevant notice to owner and that he has a reasonable excuse for failing to comply with that notice, or
- (c) that he gave notice requesting a hearing in respect of that offence as permitted by the relevant notice to owner before the end of the period allowed for response to that notice.

(3) In any case within subsection (2)(a) or (b) above—

- (a) the relevant notice to owner,
- (b) the registration, and
- (c) any proceedings taken before the declaration was served for enforcing payment of the sum registered,

shall be void but without prejudice, in a case within subsection (2)(a) above, to the service of a further notice to owner under section 63 of this Act on the person making the declaration.

This subsection applies whether or not the relevant notice to owner was duly served in accordance with that section on the person making the declaration.

(4) In any case within subsection (2)(c) above—

- (a) no proceedings shall be taken, after the statutory declaration is served until the end of the period of twenty-one days following the date of that declaration, for enforcing payment of the sum registered, and
- (b) where before the end of that period a notice is served by or on behalf of the chief officer of police on the person making the declaration asking him to provide a new statutory statement of ownership to that chief officer of police before the end of the period of twenty-one days from the date on which the notice is served, no such proceedings shall be taken until the end of the period allowed for response to that notice.

(5) Where in any case within subsection (2)(c) above—

- (a) no notice is served by or on behalf of the chief officer of police in accordance with subsection (4) above, or
- (b) such a notice is so served and the person making the declaration provides a new statutory statement of ownership in accordance with the notice,

then—

- (i) the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void, and
- (ii) the case shall be treated after the time mentioned in subsection (6) below as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.

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- (6) The time referred to in subsection (5) above is—
 - (a) in a case within paragraph (a) of that subsection, the end of the period of twenty-one days following the date of the statutory declaration,
 - (b) in a case within paragraph (b) of that subsection, the time when the statement is provided.
- (7) In any case where notice is served by or on behalf of the chief officer of police in accordance with subsection (4) above, he must cause the clerk of the relevant court to be notified of that fact immediately on service of the notice.
- (8) References in this section to the relevant notice to owner are to the notice to owner relating to the fixed penalty concerned.

74 Provisions supplementary to sections 72 and 73.

- (1) In any case within section 72(2)(b) or 73(2) of this Act—
 - (a) section 127(1) of the ^{M8}Magistrates' Courts Act 1980 (limitation of time), and
 - (b) section 331(1) of the ^{M9}Criminal Procedure (Scotland) Act 1975 (statutory offences time limit),
 shall have effect as if for the reference to the time when the offence was committed or (as the case may be) the time when the contravention occurred there were substituted a reference to the date of the statutory declaration made for the purposes of section 72(1) or, as the case may be, 73(1).
- (2) Where, on the application of a person who has received notice of the registration of a sum under section 71 of this Act for enforcement against him as a fine, it appears to the relevant court (which for this purpose may be composed of a single justice) that it was not reasonable to expect him to serve, within twenty-one days of the date on which he received the notice, a statutory declaration to the effect mentioned in section 72(2) or, as the case may be, 73(2) of this Act, the court may accept service of such a declaration by that person after that period has expired.
- (3) A statutory declaration accepted under subsection (2) above shall be taken to have been served as required by section 72(1) or, as the case may be, section 73(1) of this Act.
- (4) For the purposes of sections 72(1) and 73(1) of this Act, a statutory declaration shall be taken to be duly served on the clerk of the relevant court if it is delivered to him, left at his office, or sent in a registered letter or by the recorded delivery service addressed to him at his office.
- (5) In sections 72, 73 and this section—
 - (a) references to the relevant court are—
 - (i) in the case of a sum registered under section 71 of this Act for enforcement as a fine in a petty sessions area in England and Wales, references to any magistrates' court acting for that area, and
 - (ii) in the case of a sum registered under that section for enforcement as a fine by a court of summary jurisdiction in Scotland, references to that court,
 - (b) references to the clerk of the relevant court, where that court is a magistrates' court, are references to a clerk to the justices for the petty sessions area for which that court is acting, and

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- (c) references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum.
- (6) For the purposes of sections 72, 73 and this section, a person shall be taken to receive notice of the registration of a sum under section 71 of this Act for enforcement against him as a fine when he receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.
- (7) Nothing in the provisions of sections 72 or 73 or this section is to be read as prejudicing any rights a person may have apart from those provisions by virtue of the invalidity of any action purportedly taken in pursuance of this Part of this Act which is not in fact authorised by this Part of this Act in the circumstances of the case; and, accordingly, references in those provisions to the registration of any sum or to any other action taken under or by virtue of any provision of this Part of this Act are not to be read as implying that the registration or action was validly made or taken in accordance with that provision.

Marginal Citations

M8 1980 c. 43.

M9 1975 c. 21.

Conditional offer of fixed penalty in Scotland

[75 Conditional offer by procurator fiscal.

- (1) This section and sections 76 and 77 apply only in relation to offences committed in Scotland.
- (2) Where—
 - (a) a procurator fiscal receives a report that a fixed penalty offence has been committed, and
 - (b) no fixed penalty notice in respect of the offence has been given under section 54 of this Act or fixed to a vehicle under section 62 of this Act,he may send a notice under this section to the alleged offender.
- (3) Where a procurator fiscal receives a report that—
 - (a) an offence under an enactment specified in column 1 of Schedule 5 to this Act has been committed, or
 - (b) an offence under an enactment specified in column 1 of Schedule 3 to this Act has been committed by causing or permitting a vehicle to be used by another person in contravention of any provision made or prohibition imposed by or under any enactment, or
 - (c) an offence of aiding, abetting, counselling, procuring or inciting the commission of—
 - (i) a fixed penalty offence, or
 - (ii) an offence referred to in this subsection,has been committed,he may send a notice under this section to the alleged offender.

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- (4) A notice under this section is referred to in this section and sections 76 and 77 as a “conditional offer”.
- (5) Where the procurator fiscal issues a conditional offer, he must notify the clerk of court specified in it of its issue and its terms.
- (6) A conditional offer must—
- (a) give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence,
 - (b) state the amount of the fixed penalty for that offence, and
 - (c) state that proceedings against the alleged offender cannot be commenced in respect of that offence until the end of the period of twenty-eight days from the date on which the conditional offer was issued or such longer period as may be specified in the conditional offer.
- (7) A conditional offer must indicate that if the following conditions are fulfilled, that is—
- (a) within the period of twenty-eight days from the date on which the offer was issued, or such longer period as may be specified in the offer, the alleged offender—
 - (i) makes payment of the fixed penalty to the clerk of court specified in the offer, and
 - (ii) where the offence to which the offer relates is an offence involving obligatory endorsement, at the same time delivers his licence [^{F25}and its counterpart]] to that clerk, and
 - (b) where his [^{F26}licence and its counterpart are] so delivered, that clerk is satisfied on inspecting [^{F27}them] that, if the alleged offender 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.
- (8) The Secretary of State may by order provide for offences to become or (as the case may be) to cease to be offences in respect of which a conditional offer may be sent under subsection (3)(a) above, and may make such modifications of the provisions of this Part of this Act as appear to him to be necessary for the purpose.
- (9) An offence committed by aiding, abetting, counselling, procuring or inciting the commission of an offence which is an offence involving obligatory endorsement is itself an offence involving obligatory endorsement for the purposes of this Part of this Act.

Textual Amendments

F25 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 21(a)

F26 Words substituted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 21(b)(i)(ii)

F27 Word substituted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 21(b)(i)(ii)

[76] Effect of offer and payment of penalty.

- (1) This section applies where a conditional offer has been sent to a person under section 75 of this Act.

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- (2) No proceedings shall be brought against any person for the offence to which the conditional offer relates until the procurator fiscal receives notification in accordance with subsection (5) or (6) below.
- (3) Payment of the fixed penalty in pursuance of the conditional offer must be made to such clerk of court as may be specified in the offer.
- (4) Where the alleged offender makes payment of the fixed penalty in accordance with subsection (3) above, no proceedings shall be brought against him for the offence to which the offer relates.
- (5) Where—
 - (a) the alleged offender tenders payment in accordance with subsection (3) above and delivers his licence [^{F28}and its counterpart]] to the clerk of court specified in the conditional offer, but
 - (b) it appears to the clerk of court, on inspecting the licence [^{F29}and counterpart], that he would be liable to be disqualified under section 35 of this Act if he were convicted of the offence to which the conditional offer relates,the clerk of court must—
 - (i) return the licence [^{F30}and its counterpart] to the alleged offender together with the payment, and
 - (ii) notify the procurator fiscal who issued the conditional offer that he has complied with the preceding provisions of this subsection.
- (6) Where, on the expiry of the period of twenty-eight days from the date on which the conditional offer was made or such longer period as may be specified in the offer, the conditions specified in the offer in accordance with section 75(7)(a) of this Act have not been fulfilled, the clerk of court must notify the procurator fiscal accordingly.
- (7) In any proceedings a certificate that by a date specified in the certificate payment of a fixed penalty was or was not received by the clerk of court specified in the conditional offer shall, if the certificate purports to be signed by that clerk, be sufficient evidence of the facts stated.

Textual Amendments

F28 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 22(a)

F29 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 22(b)

F30 Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 22(c)

[77] Endorsement where penalty paid.

- (1) Where—
 - (a) in pursuance of a conditional offer a person (referred to in this section as the “licence holder”) makes payment of the fixed penalty to the clerk of court specified in the offer and delivers his licence [^{F31}and its counterpart]] to the clerk, and
 - (b) the clerk is not required by subsection (5) of section 76 of this Act to return the licence [^{F31}and its counterpart] to him and did not, before the payment was tendered, notify the procurator fiscal under subsection (6) of that section,

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the clerk must thereupon endorse the relevant particulars on [^{F31}the counterpart of] the licence and return it to the licence holder [^{F32}together with the licence].

- (2) Where it appears to a clerk of court that there is an error in an endorsement made by virtue of this section on [^{F33}the counterpart of] a licence he may amend the endorsement so as to correct the error; and the amended endorsement shall have effect and shall be treated for all purposes as if it had been correctly made on receipt of the fixed penalty.
- (3) Subject to subsection (4) below, where a cheque tendered in payment is subsequently dishonoured—
 - (a) any endorsement made by a clerk of court under subsection (1) above remains effective, notwithstanding that the licence holder is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and
 - (b) the clerk of court must, upon the expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the procurator fiscal who made the offer that no payment has been made.
- (4) When proceedings are brought against a licence holder after the procurator fiscal has been notified in pursuance of subsection (3)(b) above, the court—
 - (a) must order the removal of the fixed penalty endorsement from [^{F34}the counterpart of] the licence, and
 - (b) may, on finding the licence holder guilty, make any competent order of endorsement or disqualification and pass any competent sentence.
- (5) The reference in subsection (1) above to the relevant particulars is 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.
- (6) The clerk of court must send notice to the Secretary of State—
 - (a) of any endorsement under subsection (1) above and of the particulars endorsed,
 - (b) of any amendment under subsection (2) above, and
 - (c) of any order under subsection (4)(a) above.
- (7) Where [^{F35}the counterpart of] a person's licence is endorsed under this section he shall be treated for the purposes of sections 13(4), 28, 29 and 45 of this Act and of the ^{M10}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 (5)(a) above were particulars of his conviction of that offence.
- (8) In relation to any endorsement of [^{F36}the counterpart of] a person's licence under this section—
 - (a) the reference in section 45(4) of this Act to the order for endorsement, and
 - (b) 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.

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Textual Amendments

- F31 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 23(a)(i)(ii)(iii)**
- F32 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 23(a)(iv)**
- F33 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 23(b)**
- F34 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 23(c)**
- F35 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 23(d)**
- F36 Words inserted by S.I. 1990/144, regs. 2(2), 3, **Sch. 2 para. 23(e)**

Marginal Citations

- M10 1974 c. 53.

Proceedings in fixed penalty cases

78 General restriction on proceedings.

- (1) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates until the end of the suspended enforcement period.
- (2) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates if the fixed penalty is paid in accordance with this Part of this Act before the end of the suspended enforcement period.

79 Statements by constables.

- (1) In any proceedings a certificate that a copy of a statement by a constable with respect to the alleged offence (referred to in this section as a “constable’s witness statement”) was included in or given with a fixed penalty notice or a notice under section 54(3) of this Act given to the accused on a date specified in the certificate shall, if the certificate purports to be signed by the constable or authorised person who gave the accused the notice, be evidence of service of a copy of that statement by delivery to the accused on that date.
- (2) In any proceedings a certificate that a copy of a constable’s witness statement was included in or served with a notice to owner served on the accused in the manner and on a date specified in the certificate shall, if the certificate purports to be signed by any person employed by the police authority for the police area in which the offence to which the proceedings relate is alleged to have been committed, be evidence of service in the manner and on the date so specified both of a copy of that statement and of the notice to owner.
- (3) Any address specified in any such certificate as is mentioned in subsection (2) above as being the address at which service of the notice to owner was effected shall be taken for the purposes of any proceedings in which the certificate is tendered in evidence to be the accused’s proper address, unless the contrary is proved.
- (4) Where a copy of a constable’s witness statement is included in or served with a notice to owner served in any manner in which the notice is authorised to be served under this Part of this Act, the statement shall be treated as duly served for the purposes of section 9 of the^{M11} Criminal Justice Act 1967 (proof by written statement) notwithstanding that the manner of service is not authorised by subsection (8) of that section.

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- (5) In relation to any proceedings in which service of a constable’s witness statement is proved by certificate under this section—
- (a) that service shall be taken for the purposes of subsection (2)(c) of that section (copy of statement to be tendered in evidence to be served before hearing on other parties to the proceedings by or on behalf of the party proposing to tender it) to have been effected by or on behalf of the prosecutor, and
 - (b) subsection (2)(d) of that section (time for objection) shall have effect with the substitution, for the reference to seven days from the service of the copy of the statement, of a reference to seven days from the relevant date.
- (6) In subsection (5)(b) above “relevant date” means—
- (a) where the accused gives notice requesting a hearing in respect of the offence in accordance with any provision of this Part of this Act, the date on which he gives that notice, and
 - (b) where a notice in respect of the offence was given to the accused under section 54(4) of this Act but no fixed penalty notice is given in respect of it, the last day for production of the notice under section 54(5) at a police station in accordance with that section.
- (7) This section does not extend to Scotland.

Marginal Citations

M11 1967 c. 80.

80 Certificates about payment.

In any proceedings a certificate—

- (a) that payment of a fixed penalty was or was not received, by a date specified in the certificate, by the fixed penalty clerk, or
- (b) that a letter containing an amount sent by post in payment of a fixed penalty was marked as posted on a date so specified,

shall, if the certificate purports to be signed by the fixed penalty clerk, be evidence (and, in Scotland, sufficient evidence) of the facts stated.

81 Documents signed by the accused.

(1) Where—

- (a) any person is charged with a fixed penalty offence, and
- (b) the prosecutor produces to the court a document to which this subsection applies purporting to have been signed by the accused,

the document shall be presumed, unless the contrary is proved, to have been signed by the accused and shall be evidence (and, in Scotland, sufficient evidence) in the proceedings of any facts stated in it tending to show that the accused was the owner, the hirer or the driver of the vehicle concerned at a particular time.

(2) Subsection (1) above applies to any document purporting to be—

- (a) a notice requesting a hearing in respect of the offence charged given in accordance with a fixed penalty notice relating to that offence, or

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- (b) a statutory statement of any description defined in Schedule 4 to this Act or a copy of a statement of liability within the meaning of section 66 of this Act provided in response to a notice to owner.

Miscellaneous

82 Accounting for fixed penalties: England and Wales.

- (1) In England and Wales, sums paid by way of fixed penalty for an offence shall be treated for the purposes of section 61 (application of fines and fees) of the Justices of the ^{M12}Peace Act 1979 as if they were fines imposed on summary conviction for that offence.
- (2) Where, in England and Wales, a justices' clerk for a petty sessions area comprised in the area of one responsible authority (within the meaning of section 59 of that Act) discharges functions in connection with a fixed penalty for an offence alleged to have been committed in a petty sessions area comprised in the area of another such authority—
 - (a) that other authority must make to the first-mentioned authority such payment in connection with the discharge of those functions as may be agreed between them or, in default of such agreement, as may be determined by the Secretary of State, and
 - (b) any such payment between responsible authorities shall be taken into account in determining for the purposes of subsection (4) of that section the net cost to those authorities respectively of the functions referred to in subsection (1) of that section.
- (3) Subsection (2) above does not apply to functions discharged in connection with a fixed penalty on or after the registration of a sum determined by reference to the penalty under section 71 of this Act.

Marginal Citations

M12 1979 c. 55.

83 Powers of court where clerk deceived.

- (1) This section applies where—
 - (a) in endorsing [^{F37}the counterpart of] any person's licence under section 57 of this Act, the fixed penalty clerk is deceived as to whether endorsement under that section is excluded by section 61(2) of this Act by virtue of the fact that the licence holder would be liable to be disqualified under section 35 of this Act if he were convicted of the offence, or
 - (b) in endorsing [^{F38}the counterpart of] any person's licence under section 77 of this Act the clerk of court specified in the conditional offer (within the meaning of that section) is deceived as to whether he is required by section 76(5) of this Act to return the licence [^{F39}and its counterpart without endorsing the counterpart] by virtue of the fact that the licence holder would be liable to be disqualified under section 35 of this Act if he were convicted of the offence.

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(2) If—

- (a) the deception constituted or was due to an offence committed by the licence holder, and
- (b) the licence holder is convicted of that offence,

the court by or before which he is convicted shall have the same powers and duties as it would have had if he had also been convicted by or before it of the offence of which particulars were endorsed under section 57 or, as the case may be, 77 of this Act.

Textual Amendments

- F37** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2 para. 24(a)
- F38** Words inserted by S.I. 1990/144, regs. 2(2), 3, Sch. 2, para. 24(b)(i)(ii)
- F39** Words substituted by S.I. 1990/144, regs. 2(2), 3, Sch. 2, para. 24(b)(i)(ii)

84 Regulations.

The Secretary of State may by regulations make provision as to any matter incidental to the operation of this Part of this Act, and in particular—

- (a) for prescribing any information or further information to be provided in any notice, notification, certificate or receipt under section 52(1), 54(4), 56, 59(1), 60(1), 63(2), 70(2) and (3)(b), 73(4)(b), 75(2) and (3) or 76(5) and (6) of this Act or in any official form for a statutory statement mentioned in Schedule 4 to, or a statement under section 66(2) of, this Act,
- (b) for requiring any such official form to be served with any notice served under section 63 or 73(4) of this Act, and
- (c) for prescribing the duties of justices' clerks or (as the case may be) clerks of courts of summary jurisdiction and the information to be supplied to them.

85 Service of documents.

- (1) Subject to any requirement of this Part of this Act with respect to the manner in which a person may be provided with any such document, he may be provided with the following documents by post (but without prejudice to any other method of providing him with them), that is to say—
 - (a) any of the statutory statements mentioned in Schedule 4 to this Act, and
 - (b) any of the documents mentioned in section 66(2) of this Act.
- (2) Where a notice requesting a hearing in respect of an offence is permitted by a fixed penalty notice or notice to owner relating to that offence to be given by post, section 7 of the ^{M13}Interpretation Act 1978 (service of documents by post) shall apply as if that notice were permitted to be so given by this Act.
- (3) A notice to owner may be served on any person—
 - (a) by delivering it to him or by leaving it at his proper address, or
 - (b) by sending it to him by post,
 and where the person on whom such a notice is to be served is a body corporate it is duly served if it is served on the secretary or clerk of that body.

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- (4) For the purposes of this Part of this Act and of section 7 of the ^{M14}Interpretation Act 1978 as it applies for the purposes of subsection (3) above the proper address of any person in relation to the service on him of a notice to owner is—
- (a) in the case of the secretary or clerk of a body corporate, that of the registered or principal office of that body or the registered address of the person who is or was the registered keeper of the vehicle concerned at the time of service, and
 - (b) in any other case, his last known address at the time of service.
- (5) In subsection (4) above, “registered address”, in relation to the registered keeper of a vehicle, means the address recorded in the record kept under the ^{M15}Vehicles (Excise) Act 1971 with respect to that vehicle as being that person’s address.

Marginal Citations

- M13** 1978 c. 30.
M14 1978 c. 30.
M15 1971 c. 10.

86 Functions of traffic wardens.

- (1) An order under section 95(5) of the ^{M16}Road Traffic Regulation Act 1984 may not authorise the employment of a traffic warden to discharge any function under this Part of this Act in respect of an offence if the offence appears to the traffic warden to be an offence involving obligatory endorsement.
- (2) In so far as an order under that section authorises the employment of traffic wardens for the purposes of this Part of this Act, references in this Part of this Act to a constable or, as the case may be, to a constable in uniform include a traffic warden.

Marginal Citations

- M16** 1984 c. 27.

87 Guidance on application of Part III.

The Secretary of State must issue guidance to chief officers of police for police areas in respect of the operation of this Part of this Act with the objective so far as possible of working towards uniformity.

88 Procedure for regulations and orders.

- (1) Any power conferred by this Part of this Act on the Secretary of State to make any order or regulations shall be exercisable by statutory instrument.
- (2) Before making—
- (a) an order under section 51, 53 or 75 of this Act, or
 - (b) regulations under section 84 of this Act,
- the Secretary of State must consult with such representative organisations as he thinks fit.

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- (3) A statutory instrument containing regulations or an order under any provision of this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations under this Part of this Act may—
- (a) make different provision for different cases, and
 - (b) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the regulations.

89 Interpretation.

- (1) In this Part of this Act—
- “authorised person” has the meaning given by section 54(9) of this Act,
- “chief officer of police” (except in the definition of “authorised person”) means, in relation to any fixed penalty notice or notice to owner, the chief officer of police for the police area in which the fixed penalty offence in question is alleged to have been committed,
- “court of summary jurisdiction” has the same meaning as in section 462(1) of the ^{M17}Criminal Procedure (Scotland) Act 1975,
- “driver” except in section 62 of this Act means, in relation to an alleged fixed penalty offence, the person by whom, assuming the offence to have been committed, it was committed,
- “justices’ clerk” means the clerk to the justices for a petty sessions area,
- “petty sessions area” has the same meaning as in the ^{M18}Magistrates’ Courts Act 1980, and
- “proceedings”, except in relation to proceedings for enforcing payment of a sum registered under section 71 of this Act, means criminal proceedings.
- (2) In this Part of this Act—
- (a) references to a notice requesting a hearing in respect of an offence are references to a notice indicating that the person giving the notice wishes to contest liability for the offence or seeks a determination by a court with respect to the appropriate punishment for the offence,
 - (b) references to an offence include an alleged offence, and
 - (c) references to the person who is or was at any time the registered keeper of a vehicle are references to the person in whose name the vehicle is or was at that time registered under the ^{M19}Vehicles (Excise) Act 1971.

Marginal Citations

M17 1975 c. 21.

M18 1980 c. 43.

M19 1971 c. 10.

90 Index to Part III.

The expressions listed in the left hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part of this Act listed in the right-hand column in relation to those expressions.

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Authorised person	Section 54(9)
Conditional offer	Section 75(4)
Fixed penalty	Section 53
Fixed penalty clerk	Section 69(4)
Fixed penalty notice	Section 52
Fixed penalty offence	Section 51
Notice to owner	Sections 63(2) and 66(4)
Notice requesting a hearing in respect of an offence	Section 89(2)
Offence	Section 89(2)
Official form	Section 68(4)
Owner	Section 68(1)
Period allowed for response to a notice to owner	Section 63(5)
Proper address, in relation to the service of a notice to owner	Section 85(4)
Registered keeper	Section 89(2)
Statutory statement of facts	Part II of Schedule 4
Statutory statement of hiring	Part I of Schedule 4
Statutory statement of ownership	Part I of Schedule 4
Suspended enforcement period	Section 52(3)(a)
Time of the alleged offence	Section 63(3)

Status:

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