



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART II

#### SENTENCE

##### *Introductory*

#### <sup>F1</sup>[28] **Penalty points to be attributed to an offence.**

- (1) Where a person is convicted of an offence involving obligatory endorsement, then, subject to the following provisions of this section, the number of penalty points to be attributed to the offence is—
  - (a) the number shown in relation to the offence in the last column of Part I or Part II of Schedule 2 to this Act, or
  - (b) where a range of numbers is shown, a number within that range.
- (2) Where a person is convicted of an offence committed by aiding, abetting, counselling or procuring, or inciting to the commission of, an offence involving obligatory disqualification, then, subject to the following provisions of this section, the number of penalty points to be attributed to the offence is ten.
- <sup>F2</sup>(3) For the purposes of sections [<sup>F3</sup>57A(6)] [<sup>F4</sup>and 77A(8)] of this Act, the number of penalty points to be attributed to an offence is—
  - (a) where both a range of numbers and a number followed by the words “(fixed penalty)” is shown in the last column of Part 1 of Schedule 2 to this Act in relation to the offence, that number,
  - (b) where a range of numbers followed by the words “or appropriate penalty points (fixed penalty)” is shown there in relation to the offence, the appropriate number of penalty points for the offence, and
  - (c) where only a range of numbers is shown there in relation to the offence, the lowest number in the range.

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- (3A) For the purposes of subsection (3)(b) above the appropriate number of penalty points for an offence is such number of penalty points as the Secretary of State may by order made by statutory instrument prescribe.
- (3B) An order made under subsection (3A) above in relation to an offence may make provision for the appropriate number of penalty points for the offence to be different depending on the circumstances, including (in particular)—
- (a) the nature of the contravention or failure constituting the offence,
  - (b) how serious it is,
  - (c) the area, or sort of place, where it takes place, and
  - (d) whether the offender appears to have committed any offence or offences of a description specified in the order during a period so specified.]
- (4) Where a person is convicted (whether on the same occasion or not) of two or more offences committed on the same occasion and involving obligatory endorsement, the total number of penalty points to be attributed to them is the number or highest number that would be attributed on a conviction of one of them (so that if the convictions are on different occasions the number of penalty points to be attributed to the offences on the later occasion or occasions shall be restricted accordingly).
- (5) In a case where (apart from this subsection) subsection (4) above would apply to two or more offences, the court may if it thinks fit determine that that subsection shall not apply to the offences (or, where three or more offences are concerned, to any one or more of them).
- (6) Where a court makes such a determination it shall state its reasons in open court and, if it is a magistrates' court, or in Scotland a court of summary jurisdiction, shall cause them to be entered in the register (in Scotland, record) of its proceedings.
- (7) The Secretary of State may by order made by statutory instrument—
- (a) alter a number or range of numbers shown in relation to an offence in the last column of Part I or Part II of Schedule 2 to this Act (by substituting one number or range for another, a number for a range, or a range for a number),
  - (b) where a range of numbers is shown in relation to an offence in the last column of Part I, add or delete a number together with the words “(fixed penalty)” [F5 or the words “or appropriate penalty points (fixed penalty)”],
- [ substitute the words “or appropriate penalty points (fixed penalty)” for a number together with the words “(fixed penalty)”, or substitute a number together with the words “(fixed penalty)” for the words “or appropriate penalty points (fixed penalty)”, in relation to an offence in the last column of Part 1 or 2,] and
- (c) alter the number of penalty points shown in subsection (2) above;
- and an order under this subsection may provide for different numbers or ranges of numbers to be shown in relation to the same offence committed in different circumstances.
- (8) Where the Secretary of State exercises his power under subsection (7) above by substituting or adding a number which appears together with the words “(fixed penalty)”, that number shall not exceed the lowest number in the range shown in the same entry.

[ Before making any order under subsection (3A) above the Secretary of State must F7(8A) consult with such representative organisations as he thinks fit.]

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(9) No order shall be made under [<sup>F8</sup>this section] unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

- F1** S. 28 substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 27; S.I. 1992/1286, art. 2, Sch.
- F2** S. 28(3)-(3B) substituted for s. 28(3) (31.3.2009) by Road Safety Act 2006 (c. 49), ss. 4(2), 61(1)(10) (with s. 61(3)); S.I. 2008/3164, art. 3(a)
- F3** Word in s. 28(3) substituted (8.6.2015) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 3 para. 34; S.I. 2015/560, art. 3(a) (with arts. 4-9)
- F4** Words in s. 28(3) substituted (1.4.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 2 para. 3; S.I. 2008/3164, art. 4(b)
- F5** Words in s. 28(7)(b) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), ss. 4(3), 61(1)(10) (with s. 61(3)); S.I. 2008/3164, art. 3(a)
- F6** S. 28(7)(ba) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), ss. 4(4), 61(1)(10) (with s. 61(3)); S.I. 2008/3164, art. 3(a)
- F7** S. 28(8A) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), ss. 4(5), 61(1)(10) (with s. 61(3)); S.I. 2008/3164, art. 3(a)
- F8** Words in s. 28(9) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), ss. 4(6), 61(1)(10) (with s. 61(3)); S.I. 2008/3164, art. 3(a)

#### Modifications etc. (not altering text)

- C1** S. 28: power to exclude or modify conferred (1.7.1992) by Road Traffic Act 1988 (c. 52, SIF 107:1), s. 193A(2)(b) (inserted (1.7.1992)) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 46(2); S.I. 1992/1286, art. 2, Sch.).
- C2** S. 28(2) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 6 para. 15(a) (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 29(2A) inserted by [2006 c. 49 s. 34\(2\)](#)
- s. 30A-30D inserted by [2006 c. 49 s. 34\(3\)](#)
- s. 30C(5)(f) words substituted by [S.I. 2009/1885 Sch. 1 para. 15](#)
- s. 34A(7A) inserted by [2009 c. 25 Sch. 21 para. 90\(3\)\(d\)](#)
- s. 34B(12) added by [2009 c. 25 Sch. 21 para. 90\(4\)\(c\)](#)
- s. 34D-34G inserted by [2006 c. 49 s. 15\(1\)](#)
- s. 34D(1)(d) words inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(a\)](#)
- s. 34D(3) words inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(b\)](#)
- s. 34D(5A) inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(c\)](#)
- s. 34D(6)(a) words substituted by [2009 c. 25 Sch. 21 para. 90\(5\)\(d\)\(i\)](#)
- s. 34D(6)(b) words substituted by [2009 c. 25 Sch. 21 para. 90\(5\)\(d\)\(ii\)](#)
- s. 34D(6A) inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(e\)](#)
- s. 34F(5)(f) words substituted by [S.I. 2009/1885 Sch. 1 para. 17](#)
- s. 35A(6)(a) words substituted by [2012 c. 10 Sch. 13 para. 8\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 35A(6) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), ss. 30(1)(c), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 25)
- s. 35A(6)(b) words inserted by [2012 c. 10 Sch. 13 para. 8\(c\)](#) (This amendment not applied to legislation.gov.uk. S. 35A(6) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), ss. 30(1)(c), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 25)
- s. 36(13A) inserted by [2006 c. 49 s. 37\(6\)](#)
- s. 40B(9) words substituted by [2006 c. 49 Sch. 2 para. 33](#)
- s. 41B inserted by [2006 c. 49 s. 15\(2\)](#)
- s. 84(1) s. 84 renumbered as s. 84(1) by [2004 c. 28 s. 16\(3\)](#)
- s. 84(2)(3) inserted by [2004 c. 28 s. 16\(3\)](#)
- Sch. 1 para. 3(aa) inserted by [2006 c. 49 s. 15\(3\)\(a\)](#)
- Sch. 1 para. 4(za) inserted by [2006 c. 49 s. 15\(3\)\(b\)](#)