



# Road Traffic Offenders Act 1988

## 1988 CHAPTER 53

### PART II

#### SENTENCE

##### *Disqualification*

#### **34 Disqualification for certain offences.**

(1) Where a person is convicted of an offence involving obligatory disqualification, the court must order him to be disqualified for such period not less than twelve months as the court thinks fit unless the court for special reasons thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

[<sup>F1</sup>(1A) Where a person is convicted of an offence under section 12A of the Theft Act 1968 (aggravated vehicle-taking), the fact that he did not drive the vehicle in question at any particular time or at all shall not be regarded as a special reason for the purposes of subsection (1) above.]

[<sup>F2</sup>(2) Where a person is convicted of an offence involving discretionary disqualification, and either—

(a) the penalty points to be taken into account on that occasion number fewer than twelve, or

(b) the offence is not one involving obligatory endorsement,

the court may order him to be disqualified for such period as the court thinks fit.]

(3) <sup>M1</sup>Where a person convicted of an offence under any of the following provisions of the Road Traffic Act 1988, that is—

[<sup>F3</sup>(aa) section 3A (causing death by careless driving when under the influence of drink or drugs),]

(a) section 4(1) (driving or attempting to drive while unfit),

(b) section 5(1)(a) (driving or attempting to drive with excess alcohol), <sup>F4</sup> . . .

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[<sup>F5</sup>(ba) section 5A(1)(a) and (2) (driving or attempting to drive with concentration of specified controlled drug above specified limit),]

(c) section 7(6) (failing to provide a specimen) where that is an offence involving obligatory disqualification,

[<sup>F6</sup>(d) section 7A(6) (failing to allow a specimen to be subjected to laboratory test) where that is an offence involving obligatory disqualification;]

has within the ten years immediately preceding the commission of the offence [<sup>F7</sup>(“the new offence”)] been convicted of any such offence, subsection (1) above shall apply in relation to him as if the reference to twelve months were a reference to [<sup>F8</sup>the period specified in subsection (3A)].

[<sup>F9</sup>(3A) The period is—

(a) six years, where—

(i) an offence of which the person was convicted within the ten years mentioned in subsection (3) falls within paragraph (aa) of that subsection, and

(ii) the new offence also falls within that paragraph;

(b) in any other case (but subject to subsection (4ZA)), three years.]

[<sup>F10</sup>(4) Subject to subsection (3) above [<sup>F11</sup>and subsection (4ZA) below], subsection (1) above shall apply as if the reference to twelve months were a reference to two years—

(a) in relation to a person convicted of—

(i) manslaughter, or in Scotland culpable homicide, or

<sup>F12</sup>(ii) . . . . .

[ an offence under section 1A of [<sup>F14</sup>the Road Traffic Act 1988]

<sup>F13</sup>(iia) (causing serious injury by dangerous driving), or]

[ an offence under section 3ZC of that Act (causing death by driving:

<sup>F15</sup>(iib) disqualified drivers), or

(iic) an offence under section 3ZD of that Act (causing serious injury by driving: disqualified drivers), <sup>F16</sup>...]

<sup>F16</sup>(iii) . . . . . and

(b) in relation to a person on whom more than one disqualification for a fixed period of 56 days or more has been imposed within the three years immediately preceding the commission of the offence.

[ Subsection (1) shall apply as if the reference to twelve months were a reference to five <sup>F17</sup>(4ZA) years in relation to a person convicted of—

(a) an offence under section 1 of the Road Traffic Act 1988 (causing death by dangerous driving), or

(b) an offence under section 3A of that Act (causing death by careless driving when under the influence of drink or drugs),

but this is subject to subsection (3) in cases within paragraph (a) of subsection (3A).]

(4A) For the purposes of subsection (4)(b) above there shall be disregarded any disqualification imposed under section 26 of this Act or [<sup>F18</sup>section 147 of the Powers of Criminal Courts (Sentencing) Act 2000][<sup>F19</sup>or section 164 of the Sentencing Code] or section 223A or 436A of the Criminal Procedure (Scotland) Act 1975 (offences committed by using vehicles) and any disqualification imposed in respect of an offence of stealing a motor vehicle, an offence under section 12 or 25 of the Theft Act 1968, an offence under section 178 of the Road Traffic Act 1988, or an attempt to commit such an offence.]

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[<sup>F20</sup>(4AA) For the purposes of subsection (4)(b), a disqualification is to be disregarded if the period of disqualification would have been less than 56 days but for an extension period added pursuant to—

- (a) section 35A or 35C,
- (b) section 248D of the Criminal Procedure (Scotland) Act 1995, or
- (c) section 147A of the Powers of Criminal Courts (Sentencing) Act 2000 [<sup>F21</sup>or section 166 of the Sentencing Code].]

[<sup>F22</sup>(4B) Where a person convicted of an offence under section 40A of the Road Traffic Act 1988 (using vehicle in dangerous condition etc. ) has within the three years immediately preceding the commission of the offence been convicted of any such offence, subsection (1) above shall apply in relation to him as if the reference to twelve months were a reference to six months.]

(5) The preceding provisions of this section shall apply in relation to a conviction of an offence committed by aiding, abetting, counselling or procuring, or inciting to the commission of, an offence involving obligatory disqualification as if the offence were an offence involving discretionary disqualification.

[<sup>F23</sup>(5A) In relation to Scotland, references in this section to the court include the [<sup>F24</sup>justice of the peace court].]

(6) This section is subject to section 48 of this Act.

#### Textual Amendments

- F1** S. 34(1A) inserted (1.4.1992) by Aggravated Vehicle-Taking Act 1992 (c. 11), s. 3(2); S.I. 1992/764, art. 2
- F2** S. 34(2) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 29(2); S.I. 1992/1286, art. 2, Sch (with art. 6(5)).
- F3** S. 34(3)(aa) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 29(3); S.I. 1992/1286, art. 2, Sch (with art. 6(5)).
- F4** Word in s. 34(3)(b) omitted (1.10.2002) and repealed (*prosp.*) by virtue of 2002 c. 30, ss. 56(3)(a), 107, Sch. 8; S.I. 2002/2306, arts. 2(d)(v)(g)(iii)
- F5** S. 34(3)(ba) inserted (2.3.2015 for E.W., 1.3.2018 for S., 1.3.2018 for N.I.) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 22 para. 12 (with Sch. 22 para. 14); S.I. 2014/3268, art. 2; S.I. 2018/161, art. 2; S.I. 2018/162, art. 2
- F6** S. 34(3)(d) inserted (1.10.2002) by 2002 c. 30, s. 56(3)(b); S.I. 2002/2306, art. 2(d)(v)
- F7** Words in s. 34(3) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 86(5)(a), 208(5)(i) (with s. 86(9))
- F8** Words in s. 34(3) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 86(5)(b), 208(5)(i) (with s. 86(9))
- F9** S. 34(3A) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 86(6), 208(5)(i) (with s. 86(9))
- F10** S. 34(4)(4A) substituted (1.7.1992) for s. 34(4) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 29(4); S.I. 1992/1286, art. 2, Sch (with art. 6(5)).
- F11** Words in s. 34(4) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 86(7)(a), 208(5)(i) (with s. 86(9))
- F12** S. 34(4)(a)(ii) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 86(7)(b)(i), 208(5)(i) (with s. 86(9))
- F13** S. 34(4)(a)(iia) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 27 para. 5; S.I. 2012/2770, art. 2(g)

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- F14** Words in s. 34(4)(a)(ia) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 86(7)(b)(ii)**, 208(5)(i) (with s. 86(9))
- F15** S. 34(4)(a)(iib)(iic) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 6 para. 4** (with s. 29(5)); S.I. 2015/778, art. 3, Sch. 1 para. 75
- F16** S. 34(4)(a)(iii) and word omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 86(7)(b)(iii)**, 208(5)(i) (with s. 86(9))
- F17** S. 34(4ZA) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 86(8)**, 208(5)(i) (with s. 86(9))
- F18** Words in s. 34(4A) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 121**
- F19** Words in s. 34(4A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 100(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F20** S. 34(4AA) inserted (16.7.2018) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 90(2)** (with s. 180); S.I. 2018/733, art. 2(c)
- F21** Words in s. 34(4AA)(c) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 100(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F22** S. 34(4B) inserted (24.9.2007) by Road Safety Act 2006 (c. 49), **ss. 25(2)**, 61(1)(10) (with s. 61(3)); S.I. 2007/2472, art. 2(d)
- F23** S. 34(5A) inserted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Powers of District and JP Courts) Order 2007 (S.I. 2007/3480), arts. 1(1), **2(1)(b)**
- F24** Words in s. 34(5A) substituted (S.) (10.3.2008 for specified purposes, 2.6.2008 for specified purposes, 8.12.2008 for specified purposes, 23.2.2009 for specified purposes, 14.12.2009 for specified purposes, 22.2.2010 in so far as not already in force) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), s. 84(1), **sch. para. 7(d)**; S.S.I. 2008/42, art. 3, **sch.**; S.S.I. 2008/192, art. 3, **sch.**; S.S.I. 2008/329, art. 3, **sch.**; S.S.I. 2008/362, art. 3, **sch.**; S.S.I. 2009/432, art. 3, sch. 1, sch. 2

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

- C1** S. 34: 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** (with art. 6(5)).
- C2** S. 34(5) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 6 para. 15(b)** (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)

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**Marginal Citations**

- M1** 1988 c. 52.

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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\(3\)\(b\)](#)