



# Crime (Sentences) Act 1997

## 1997 CHAPTER 43

### PART III

#### MISCELLANEOUS AND SUPPLEMENTAL

#### *Driving disqualifications*

#### **40 Fine defaulters.**

- (1) This section applies in any case where a magistrates' court—
  - (a) has power under Part III of the 1980 Act to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction of a magistrates' court (other than a sum ordered to be paid under section 71 of the <sup>M1</sup>Criminal Justice Act 1988 or section 2 of the <sup>M2</sup>Drug Trafficking Act 1994 [<sup>F1</sup>or section 6 of the Proceeds of Crime Act 2002]); or
  - (b) would, but for [<sup>F2</sup>section 227 of the Sentencing Code] (restrictions on custodial sentences for persons under 21), have power to issue such a warrant for such default.
- (2) Subject to subsection (3) below, the magistrates' court may, instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the 1980 Act (enforcement of fines imposed on young offenders), order the person in default to be disqualified, for such period not exceeding twelve months as it thinks fit, for holding or obtaining a driving licence.
- (3) A magistrates court shall not make an order under subsection (2) above unless the court has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.
- (4) Where an order has been made under subsection (2) above for default in paying any sum—
  - (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;

**Changes to legislation:** *Crime (Sentences) Act 1997, Section 40 is up to date with all changes known to be in force on or before 07 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) View outstanding changes*

- (b) on payment of a part of that sum to any such person, the number of weeks or months to which the order relates shall be reduced proportionately; and the total number is so reduced if it is reduced by such number of complete weeks or months as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the whole sum.
- (5) The Secretary of State may by order made by statutory instrument vary the period specified in subsection (2) above; but no such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- [<sup>F3</sup>(6) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce any such licence held by him <sup>F4</sup>....
- (7) In this section—  
 “driving licence” means a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988;  
<sup>F5</sup> ...]

#### Textual Amendments

- F1** Words in s. 40(1)(a) inserted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), s. 458\(1\), Sch. 11 para. 32\(3\)](#); S.I. 2003/333, art. 2, Sch.
- F2** Words in s. 40(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 148](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2
- F3** S. 40(6)(7) substituted (25.8.2000) for s. 40(6) by 2000 c. 6, ss. 165, 168(1), [Sch. 9 para. 185\(3\)](#)
- F4** Words in s. 40(6) omitted (8.6.2015) by virtue of [The Road Safety Act 2006 \(Consequential Amendments\) Order 2015 \(S.I. 2015/583\), art. 1\(1\), Sch. 2 para. 5\(a\)](#)
- F5** Words in s. 40(7) omitted (8.6.2015) by virtue of [The Road Safety Act 2006 \(Consequential Amendments\) Order 2015 \(S.I. 2015/583\), art. 1\(1\), Sch. 2 para. 5\(b\)](#)

#### Commencement Information

- I1** S. 40 not in force at Royal Assent, see s. 57(2). S. 40 in force at 1.1.1998 by 1997/2200, art. 3 (subject to savings in art. 5)

#### Marginal Citations

- M1** 1988 c.33.  
**M2** 1994 c.37.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 40 repealed by 2003 c. 44 s. 303(b)(iii)Sch. 37 Pt. 7
- s. 40(1)(b) by 2000 c. 43 Sch. 7 para. 140

**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. 35(5)(c)s. 35(8)(a) by 2000 c. 43 Sch. 7 para. 139(b)
- s. 8(5) by 2000 c. 43 Sch. 7 para. 143