



Crime and Punishment (Scotland) Act 1997

1997 CHAPTER 48

PART I

SENTENCING

Powers of court to disqualify from driving

15 Driving disqualifications

(1) After section 248 of the 1995 Act there shall be inserted the following sections—

“248A General power to disqualify offenders

- (1) Subject to subsection (2) below, the court by or before which a person is convicted of an offence may, in addition to or instead of dealing with him in any other way, order him to be disqualified from holding or obtaining a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988 for such period as it thinks fit.
- (2) Where the person is convicted of an offence for which the sentence is fixed by law, subsection (1) above shall have effect as if the words “or instead of” were omitted.
- (3) Subsections (2) and (4) of section 248 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.

248B Power to disqualify fine defaulters

- (1) This section applies where the court has power to impose a period of imprisonment in default of payment of a fine, or any part or instalment of a fine.

Status: This is the original version (as it was originally enacted).

- (2) Where this section applies, the court may, instead of imposing such a period of imprisonment as is mentioned in subsection (1) above, order that where the offender is in default he shall be disqualified from holding a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988 for such period not exceeding twelve months as the court thinks fit.
- (3) Where an order has been made under subsection (2) above in default of payment of any fine, or any part or instalment of a fine—
 - (a) on payment of the fine to any person authorised to receive it, the order shall cease to have effect; and
 - (b) on payment of any part of that fine to any such person, the period of disqualification to which the order relates shall be reduced (or, as the case may be, further reduced) by a number of days bearing as nearly as possible the same proportion to such period as the sum so paid bears to the amount of the fine outstanding at the commencement of that period.
- (4) Subsections (2) and (4) of section 248 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.
- (5) Section 19 of the Road Traffic Offenders Act 1988 (proof of disqualification in Scottish proceedings) shall apply to an order under subsection (2) above as it applies to a conviction or extract conviction.
- (6) 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.

248C Application of sections 248A and 248B

- (1) The Secretary of State may by order prescribe which courts, or class or classes of courts, may make orders under section 248A or 248B of this Act and, without prejudice to that generality, in relation to district courts an order under this subsection may make provision as respects such courts by reference to whether the court is constituted by a stipendiary magistrate or by one or more justices.
 - (2) An order made under subsection (1) above shall be made by statutory instrument and any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
 - (3) Where an order has been made under subsection (1) above, section 248(1) of this Act shall not apply as respects any court, or class or classes of court prescribed by the order.”.
- (2) In section 252(2) of the 1995 Act (application of fines provisions to compensation orders)—
- (a) the word “and” in the third place where it occurs shall cease to have effect; and
 - (b) after the word “specified)” there shall be inserted the words “; and
- section 248B (driving disqualification for fine defaulters) so far as it relates to the power conferred by section 219(1)(b).”.

- (3) In section 14(2) of the Proceeds of Crime (Scotland) Act 1995 (application of fines provisions to confiscation orders), after paragraph (k) there shall be added the following paragraph—
- “(l) section 248B.”.