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Road Safety Act 2006

2006 CHAPTER 49

Drink-driving etc.

13 High risk offenders: medical enquiries following disqualification

(1) In section 88 of the Road Traffic Act 1988 (exceptions to requirement to hold driving licence), after subsection (2) insert—

“(2A) Subsection (1) above does not apply by virtue of an application mentioned in paragraph (b) of that subsection having been received by the Secretary of State if—

- (a) the application was made as a result of, or in anticipation of, the expiry of a disqualification relevant to the licence applied for,
- (b) either the nature of the disqualification or its imposition within a particular period after an earlier disqualification amounted to circumstances prescribed under subsection (4) of section 94 of this Act (disqualification: high risk offenders), and
- (c) the Secretary of State has notified the applicant that, because of that, he will be subject to a requirement under paragraph (a) or (b) of subsection (5) of that section.”

(2) The amendment made by subsection (1) does not apply where the conviction in respect of which the disqualification was ordered was imposed before the coming into force of that subsection.

Commencement Information

II S. 13 in force at 1.6.2013 by S.I. 2013/1012, art. 2

^{F1}14 Period of endorsement for failure to allow specimen to be tested

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Textual Amendments

- F1** S. 14 repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), [Sch. 7\(4\)](#); S.I. 2015/560, art. 3(b) (with arts. 4-9)

PROSPECTIVE

15 Alcohol ignition interlocks

- (1) In the Road Traffic Offenders Act 1988, after section 34C insert—

“34D Reduced disqualification period: alcohol ignition interlock programme orders

- (1) This section applies where—
- (a) a person is convicted of a relevant drink offence by or before a court,
 - (b) he has committed another relevant drink offence at any time during the period of ten years ending with the date of the conviction,
 - (c) the court makes an order under section 34 of this Act but does not make an order under section 34A of this Act, and
 - (d) the period stated by the court as that for which, apart from this section, he would be disqualified (“the unreduced period”) is not less than two years.
- (2) In this section “relevant drink offence” means—
- (a) an offence under paragraph (a) of subsection (1) of section 3A of the Road Traffic Act 1988 (causing death by careless driving when unfit to drive through drink) committed when unfit to drive through drink,
 - (b) an offence under paragraph (b) of that subsection (causing death by careless driving with excess alcohol),
 - (c) an offence under paragraph (c) of that subsection (failing to provide a specimen) where the specimen is required in connection with drink or consumption of alcohol,
 - (d) an offence under section 4 of that Act (driving or being in charge when under influence of drink) committed by reason of unfitness through drink,
 - (e) an offence under section 5(1) of that Act (driving or being in charge with excess alcohol),
 - (f) an offence under section 7(6) of that Act (failing to provide a specimen) committed in the course of an investigation into an offence within any of the preceding paragraphs, or
 - (g) an offence under section 7A(6) of that Act (failing to allow a specimen to be subjected to a laboratory test) in the course of an investigation into an offence within any of the preceding paragraphs.
- (3) Where this section applies, the court may specify a lesser period of disqualification (“the reduced period”) if it also makes an order (an “alcohol ignition interlock programme order”) requiring the offender to comply with the alcohol ignition interlock conditions.

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- (4) The difference between the unreduced period and the reduced period shall be a period specified in the order of—
 - (a) not less than 12 months, and
 - (b) not more than one half of the unreduced period.
- (5) If the offender contravenes the alcohol ignition interlock conditions, a further order under section 34 disqualifying him for the rest of the unreduced period is to be treated as having been made by the court immediately before the contravention.
- (6) “The alcohol ignition interlock conditions” are that the offender—
 - (a) must participate fully in an approved alcohol ignition interlock programme specified in the order during such part of the unreduced period as is so specified, and
 - (b) during the part of that period following the reduced period, must not drive a motor vehicle unless it is fitted with an alcohol ignition interlock in good working order and must not drive a motor vehicle which is so fitted when not using the alcohol ignition interlock properly.
- (7) A court shall not make an alcohol ignition interlock programme order in the case of an offender unless—
 - (a) the court is satisfied that a place on the approved alcohol ignition interlock programme specified in the order will be available for the offender,
 - (b) the offender appears to the court to be of or over the age of 17,
 - (c) the court has informed the offender (orally or in writing and in ordinary language) of the effect of the order and the amount of the fees which he is required to pay for the programme and when he must pay them, and
 - (d) the offender has agreed that the order should be made.
- (8) For the purposes of this section an “approved alcohol ignition interlock programme” is a programme approved by the appropriate national authority and involving the provision of an alcohol ignition interlock for use by the offender, training in its use and other education and counselling relating to the consumption of alcohol and driving.
- (9) For the purposes of this section “alcohol ignition interlock” means a device—
 - (a) of a type approved by the Secretary of State, and
 - (b) designed to be fitted to a motor vehicle with the purpose of preventing the driving of the vehicle by a person who does not, both before starting driving the vehicle and at regular intervals while driving it, provide specimens of breath in which the proportion of alcohol is likely not to exceed the limit specified in subsection (10) below.
- (10) That limit is 9 microgrammes of alcohol in 100 millilitres of breath or such other proportion of alcohol to breath as the Secretary of State may by regulations prescribe.
- (11) For the purposes of this section an offender uses an alcohol ignition interlock properly if (and only if) he is complying with all the instructions given to him about its use as part of the approved alcohol ignition interlock programme.

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- (12) Where an alcohol ignition interlock is fitted to a motor vehicle as part of an approved alcohol ignition interlock programme relating to an offender, a person commits an offence if—
- (a) he interferes with the alcohol ignition interlock with intent to cause it not to function or not to function properly, or
 - (b) he is a person other than the offender and provides or attempts to provide a specimen of breath for the purposes of the alcohol ignition interlock with intent to enable the driving (or continued driving) of the vehicle by the offender.

34E Certificates of failing fully to participate

- (1) An offender shall be regarded for the purposes of section 34D of this Act as not fully participating in an approved alcohol ignition interlock programme if (and only if) a certificate that that is so is received by the proper officer of the supervising court.
- (2) A certificate under subsection (1) above may be given if (and only if) the offender has failed—
 - (a) to make due payment of fees for the programme,
 - (b) to attend for training, education or counselling forming part of the programme in accordance with the programme provider's reasonable instructions,
 - (c) to attend at a place specified by the programme provider for the monitoring and maintenance of the alcohol ignition interlock, at a time specified by the programme provider or a person with whom the programme provider has made arrangements for its monitoring and maintenance, or
 - (d) to comply with any other reasonable requirement of the programme provider.
- (3) A certificate under subsection (1) above is to be given by the programme provider and shall be in such form, and contain such particulars, as may be prescribed by, or determined in accordance with, regulations made by the appropriate national authority.
- (4) Where a programme provider decides to give a certificate under subsection (1) above, he shall give written notice of the decision to the offender as soon as possible.
- (5) An offender to whom a notice is given under subsection (4) above may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court, the High Court of Justiciary or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the programme provider has given the certificate under subsection (1) above in contravention of subsection (2) above.
- (6) If the court grants the application, section 34D of this Act shall have effect as if the certificate had not been duly received by the proper officer of the supervising court.

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- (7) A notice under subsection (4) above shall specify the ground on which it is given; and the appropriate national authority may by regulations make provision as to the form of notices under that subsection and as to the circumstances in which they are to be treated as given.
- (8) Where the proper office of a court receives a certificate under subsection (1) above, or a court grants an application under subsection (5) above, the proper officer or court must send notice of that fact to the Secretary of State; and the notice must be sent in such manner and to such address, and must contain such particulars, as the Secretary of State may determine.

34F Approval of programmes

- (1) If an application is made to the appropriate national authority for the approval of a programme for the purposes of section 34D of this Act, the appropriate national authority must decide whether to grant or refuse the application.
- (2) In reaching that decision the appropriate national authority must have regard to—
 - (a) the nature of the programme, and
 - (b) whether the programme provider is an appropriate person to provide the programme and administer its provision efficiently and effectively,and may take into account any recommendations made by any persons appointed to consider the application.
- (3) A programme may be approved subject to conditions specified by the appropriate national authority.
- (4) An approval of a programme is for the period specified by the appropriate national authority (which must not exceed seven years), subject to withdrawal of approval.
- (5) Regulations made by the appropriate national authority may make provision in relation to the approval of programmes and may, in particular, include provision—
 - (a) in relation to the making of applications for approval,
 - (b) for the payment in respect of applications for approval, or of approvals, (or of both) of fees of such amounts as are prescribed by the regulations,
 - (c) specifying the maximum fees that a person may be required to pay for a programme and by when they are to be paid,
 - (d) for the monitoring of programmes and programme providers,
 - (e) in relation to withdrawing approval,
 - (f) for an appeal to lie to the Transport Tribunal against a refusal of an application for approval, the imposition of conditions on the grant of such an application or the withdrawal of approval, and
 - (g) authorising the appropriate national authority to make available (with or without charge) information about programmes and programme providers.

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34G Provisions supplementary to sections 34D to 34F

- (1) The appropriate national authority may issue guidance to programme providers, or to any category of programme provider, as to the conduct of programmes approved for the purposes of section 34D of this Act; and—
 - (a) programme providers shall have regard to any guidance given to them under this subsection, and
 - (b) in determining for the purposes of section 34E of this Act whether any instructions or requirements of a programme provider were reasonable, a court shall have regard to any guidance given to him under this subsection.
- (2) The Secretary of State may by regulations make provision—
 - (a) amending section 34D(1)(b) of this Act by substituting for the period for the time being specified there a different period,
 - (b) amending section 34D(1)(d) of this Act by substituting for the period for the time being specified there a different period, or
 - (c) amending section 34D(4) of this Act by substituting for the period for the time being specified there a different period, or by substituting for the fraction of the unreduced period for the time being specified there a different fraction of that period, (or by doing both).
- (3) In sections 34D to 34F of this Act and this section—

“appropriate national authority” means (as respects Wales) the National Assembly for Wales and (otherwise) the Secretary of State;

“contravention” includes failure to comply;

“programme provider”, in relation to an alcohol ignition interlock programme, means the person by whom it is, or is to be, provided;

“proper officer” means—

 - (a) in relation to a magistrates' court in England and Wales, the designated officer for the court, and
 - (b) otherwise, the clerk of the court;

“relevant local court”, in relation to an alcohol ignition interlock programme order in the case of an offender, means—

 - (a) in England and Wales, a magistrates' court acting for the local justice area in which the offender resides, and
 - (b) in Scotland, the sheriff court for the district where the offender resides or, where the order is made by a stipendiary magistrate and the offender resides within his commission area, the district court for that area; and

“supervising court”, in relation to an alcohol ignition interlock programme order, means—

 - (a) in England and Wales, if the Crown Court made the order the Crown Court and otherwise a magistrates' court acting for the same local justice area as the court which made the order, and
 - (b) in Scotland, the court which made the order.
- (4) Any power to make regulations under section 34D, 34E or 34F of this Act or this section includes power to make different provision for different cases,

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and to make such incidental or supplementary provision as appears to the appropriate national authority to be necessary or appropriate.

- (5) Any power to make regulations under section 34D, 34E or 34F of this Act or this section shall be exercisable by statutory instrument.
- (6) A statutory instrument containing regulations made under section 34D, 34E or 34F of this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

(2) In the Road Traffic Offenders Act 1988 (c. 53), after section 41A insert—

“41B Suspension of certificate pending determination of applications under section 34E

- (1) Where a person given a certificate under subsection (1) of section 34E of this Act makes an application to a court under subsection (5) of that section, the court may suspend the effect of the certificate pending the determination of the application.
- (2) Where a court exercises its power under subsection (1) above it must send notice of the suspension to the Secretary of State.
- (3) The notice must be sent in such manner and to such address and must contain such particulars, as the Secretary of State may determine.”

(3) In Schedule 1 to that Act (offences to which certain sections apply)—

- (a) in paragraph 3, after paragraph (a) insert—

“(aa) an offence under section 34D(12) of this Act,” and
- (b) in paragraph 4, before paragraph (a) insert—

“(za) an offence under section 34D(12) of this Act,”.

(4) In Part 1 of Schedule 2 to that Act (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to section 27 of that Act insert—

“Section 34D(12) of this Act	Interference with alcohol ignition interlock.	Summarily. Level 4 on the standard scale if the motor vehicle to which the alcohol ignition interlock is fitted is a goods vehicle or a vehicle adapted	”
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to carry
more
than eight
passengers.
Level 3
on the
standard
scale in
any other
case.

PROSPECTIVE

16 Experimental period for section 15

- (1) Subject as follows, no order shall be made under section 34D of the Road Traffic Offenders Act 1988 (c. 53) (inserted by section 15) after—
 - (a) the end of 2010, or
 - (b) such later time as may be specified in an order made by the Secretary of State.
- (2) But at any time before the restriction imposed by subsection (1) has taken effect, the Secretary of State may by order provide that it shall not do so.
- (3) In this section “the experimental period” means the period beginning when section 15 comes into force and ending—
 - (a) when the restriction imposed by subsection (1) takes effect, or
 - (b) if the Secretary of State makes an order under subsection (2), on a date specified in the order.
- (4) During the experimental period—
 - (a) no order shall be made under section 34D by virtue of a person's conviction under section 3A of the Road Traffic Act 1988 (c. 52), and
 - (b) no order shall be made under section 34D except by a magistrates' court acting for a local justice area (or, in Scotland, a sheriff court for a district or a stipendiary magistrate for a commission area) which is for the time being designated for the purposes of this section.
- (5) In relation to orders made under section 34D during the experimental period, section 34E(5) shall have effect with the omission of the references to the relevant local court.
- (6) The power to designate an area or district for the purposes of this section is exercisable by the Secretary of State by order, and includes power to revoke a designation previously made.
- (7) An order under subsection (6) must specify the period for which an area or district is designated, and may—
 - (a) specify different periods for different areas or districts, and
 - (b) extend or shorten any period previously specified.
- (8) The power to make an order under subsection (1) is not exercisable after the end of 2010, and no more than one order may be made under that subsection.

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- (9) Any power of the Secretary of State to make orders under this section is exercisable by statutory instrument, and—
- (a) no order is to be made under subsection (1) or (2) unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament, and
 - (b) any statutory instrument containing an order under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.

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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):

- Sch. 6 para. 8A inserted by [2016 c. 16 s. 3\(3\)](#)
- Sch. 6 para. 10A inserted by [2016 c. 16 s. 4\(2\)](#)
- Sch. 6 para. 13(9) inserted by [2016 c. 16 s. 4\(5\)](#)