

**2008 No. 3164 (C.140)**

**ROAD TRAFFIC**

**The Road Safety Act 2006 (Commencement No. 5) Order 2008**

*Made* - - - -

*8th December 2008*

The Secretary of State for Transport makes the following Order in exercise of the powers conferred by section 61 of the Road Safety Act 2006(a):

**Citation and extent**

**1.**—(1) This Order may be cited as the Road Safety Act 2006 (Commencement No. 5) Order 2008.

(2) In this Order—

“the first appointed day” means 5 January 2009;

“the second appointed day” means 31 March 2009; and

“the third appointed day” means 1 April 2009.

**Commencement of sections 3, 11, 12, and part of section 59**

**2.** The following provisions of the Road Safety Act 2006 shall come into force on the first appointed day—

(a) section 3;

(b) section 11, and accordingly Schedule 4;

(c) section 12; and

(d) section 59 in so far as it relates to paragraph 1 of Schedule 7, and accordingly paragraph 1 of Schedule 7.

**Commencement of sections 4 – 7 and a further part of section 59**

**3.** The following provisions of the Road Safety Act 2006 shall come into force on the second appointed day—

(a) section 4;

(b) section 5, and accordingly Schedule 1;

(c) sections 6 and 7; and

(d) section 59, insofar as it relates to paragraph 2 of Schedule 7, and accordingly paragraph 2 of Schedule 7.

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(a) 2006 c.49.

## **Commencement of sections 8 and 9**

4. The following provisions of the Road Safety Act 2006 shall come into force on the third appointed day—

- (a) section 8;
- (b) section 9, and accordingly Schedule 2; and
- (c) section 59, insofar as it relates to paragraph 3 of Schedule 7, and accordingly paragraph 3 of Schedule 7.

Signed by authority of the Secretary of State for Transport

*Jim Fitzpatrick*  
Parliamentary Under Secretary of State  
Department for Transport

8th December 2008

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force sections 3, 4 – 9, 11 and 12 of the Road Safety Act 2006, together with Schedules 1, 2 and 4. It also commences section 59 (in part) together with part of Schedule 7.

Section 3 amends section 53 of the Road Traffic Offenders Act 1988 (“the Act”). It enables the Secretary of State to prescribe by order different levels of fixed penalty for fixed penalty offences depending on the circumstances, including, in particular the nature of the contravention or failure constituting the offence; how serious it is; the area, or sort of place, where it takes place; and whether the offender appears to have committed any offence or offences of a description specified in the order during a specified period. Section 3 also makes consequential amendments to the regulation-making powers conferred by section 84(2) of the Act.

Section 4 amends section 28 of the Act, which provides for the penalty points that are to be attributed to an offence when a person’s driving licence is to be endorsed. The section substitutes three new subsections, (3), (3A) and (3B), for subsection (3). The new subsections enable the Secretary of State to prescribe by order appropriate numbers of penalty points for offences, which may vary depending on the circumstances of the offence. Those circumstances include the nature of the offence, its severity, where it has taken place and whether the offender appears to have committed other, prescribed offences during a prescribed period.

Section 4 also amends section 28 to allow the Secretary of State to amend Part 2 of Schedule 2 of the RTOA to provide for the penalty points for a fixed penalty offence to be the appropriate number of penalty points. The current penalty point provisions remain in force for any offence for which no such order is made.

Section 5 and Schedule 1 amend Part 3 of the Act to enable vehicle examiners to issue fixed penalty notices for fixed penalty offences. Sections 6 and 7 amend the Goods Vehicles (Licensing of Operators) Act 1995 and the Public Passenger Vehicles Act 1981 to provide for notification to the Traffic Commissioners in respect of certain fixed penalty notices.

Sections 8 and 9 and Schedule 2 provide for a new system of endorsement of driving licences. Section 8 inserts the definition of the driving record into the Act. Section 9, together with Schedule 2, provides for endorseable fixed penalties to be issued to drivers who do not hold a driving licence issued in Great Britain by enabling their driving record to be checked and subsequently endorsed with penalty points.

Section 11(1) and (2) inserts a new Part 3A (sections 90A to 90F) into the Act. Police and vehicle examiners will be able to require the payment of a deposit by a person they believe to have committed an offence in relation to a motor vehicle who does not provide a satisfactory address in the United Kingdom at which it is likely the person can be found. The effect of these provisions is to provide a means of enforcement against offenders who avoid payment of fixed penalties and prosecution by not having a satisfactory address in the United Kingdom.

Section 11(3) and section 12 permit vehicles that have been prohibited from driving to be immobilised in accordance with Regulations made under Schedule 4.

Section 59 and paragraphs 1 – 3 of Schedule 7 contain repeals and revocations.

## **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

The following provisions of the Road Safety Act 2006 have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 14	24.9.2007	2007/2472
Sections 20 and 21	18.8.2008	2008/1918
Sections 23 to 25	24.9.2007	2007/2472
Section 26	27.2.2007	2007/237
Sections 27 to 29	24.9.2007	2007/2472
Section 30 in so far as section 3ZA of the Road Traffic Act 1988 (1988 c.52.) has effect for the purposes of sections 3 and 3A of that Act	24.9.2007	2007/2472
Section 30, to the extent not already commenced	18.8.2008	2008/1918
Sections 31 to 33	24.9.2007	2007/2472
Section 36	27.2.2007	2007/237
Section 40	27.2.2007	2007/237
Section 41	24.9.2007	2007/2472
Section 43	24.9.2007	2007/2472
Section 44	16.3.2007	2007/466
Section 45	30.7.2008	2008/1862
Section 46	31.7.2008	2008/1864
Section 50	27.2.2007	2007/237
Section 52	16.3.2007	2007/466
Section 53	28.1.2008	2007/3492
Section 54	31.3.2008	2007/3492
Section 55	28.1.2008	2007/3492
Section 59 in so far as it relates to paragraphs 9, 12 and 16 of Schedule 7 (and accordingly paragraphs 9, 12 and 16 of Schedule 7)	27.2.2007	2007/237
Section 59 in so far as it relates to paragraphs 5 and 13 of Schedule 7 (and accordingly paragraphs 5 and 13 of Schedule 7)	24.9.2007	2007/2472

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STATUTORY INSTRUMENTS

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