

SCHEDULE 5

Rule 18

“PART 55

ROAD TRAFFIC PENALTIES

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[Note. Part 37 contains rules about the general procedure on sentencing in a magistrates' court.]

Application to remove a disqualification from driving

55.1.—(1) This rule applies where, on application by the defendant, the court can remove a disqualification from driving.

(2) A defendant who wants the court to exercise that power must—

(a) apply in writing, no earlier than the date on which the court can exercise the power;

(b) serve the application on the court officer; and

(c) in the application—

(i) specify the disqualification that the defendant wants the court to remove, and

(ii) explain why.

(3) The court officer must serve a copy of the application on the chief officer of police for the local justice area.

[Note. For the circumstances in which the court may remove a disqualification from driving imposed under section 34 or 35 of the Road Traffic Offenders Act 1988(1), see section 42 of the Act(2). The court may not consider an application made within 2 years of the disqualification, in any case; or, after that, before a specified period has expired.]

Information to be supplied on order for endorsement of driving record, etc.

55.2.—(1) This rule applies where the court—

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- (1) 1988 c. 53; section 34 was amended by section 29(1), (2) and (3) of the Road Traffic Act 1991 (c. 40), section 3(2) of, the Aggravated Vehicle-Taking Act 1992 (c. 11), section 165(1) of, and paragraph 121 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 25(2) of the Road Safety Act 2006 (c. 49) and article 2(1)(b) of S.I. 2007/3480. It is further amended by section 177(1) of, and paragraph 90 of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed. Section 35 was amended by section 48 of, and paragraph 95(1), (3), (4), (5), (6) and (7) of Schedule 4 to, the Road Traffic Act 1991 (c. 40), and section 165(1) of, and paragraph 122 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6). It is further amended by section 177(1) of, and 90(1) and (6) of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.
- (2) 1988 c. 53; section 42 was amended by regulations 2(2) and 3 and paragraph 9 of Schedule 2 to, S.I. 1990/144, section 48 of, and paragraph 98 of Schedule 4 to, the Road Traffic Act 1991 (c. 40) and section 9(6) of, and paragraphs 2 and 8 of Schedule 2 to, the Road Safety Act 2006 (c. 49). It is further amended by sections 10(12) and 59 of, and paragraphs 30 and 40 of Schedule 3, and Schedule 7 to, the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.

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- (a) convicts the defendant of an offence involving obligatory endorsement, and orders there to be endorsed on the defendant's driving record and on any counterpart licence—
 - (i) particulars of the conviction,
 - (ii) particulars of any disqualification from driving that the court imposes, and
 - (iii) the penalty points to be attributed to the offence;
 - (b) disqualifies the defendant from driving for any other offence; or
 - (c) suspends or removes a disqualification from driving.
- (2) The court officer must, as soon as practicable, serve on the Secretary of State notice that includes details of—
- (a) where paragraph (1)(a) applies—
 - (i) the local justice area in which the court is acting,
 - (ii) the dates of conviction and sentence,
 - (iii) the offence, and the date on which it was committed,
 - (iv) the sentence, and
 - (v) the date of birth, and sex, of the defendant, where those details are available;
 - (b) where paragraph (1)(b) applies—
 - (i) the date and period of the disqualification,
 - (ii) the power exercised by the court;
 - (c) where paragraph (1)(c) applies—
 - (i) the date and period of the disqualification,
 - (ii) the date and terms of the order for its suspension or removal,
 - (iii) the power exercised by the court, and
 - (iv) where the court suspends the disqualification pending appeal, the court to which the defendant has appealed.

[Note. See sections 39(3), 42(5) and 44A of the Road Traffic Offenders Act 1988(3).

Under section 25 of the 1988 Act(4), the court may order a defendant to disclose his or her date of birth, and sex, where that is not apparent (for example, where the defendant is convicted in his or her absence). Under section 27 of the 1988 Act(5), and under sections 146(4) and 147(5) of the Powers of Criminal Courts (Sentencing) Act 2000(6), the court may order a defendant to produce his or her driving licence, if not already produced.

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- (3) 1988 c. 53; section 42(5) was amended by section 9(6) of, and paragraphs 2 and 8 of Schedule 2 to, the Road Safety Act 2006 (c. 49). Section 44A was inserted by section 9(1) and (3) of the Road Safety Act 2006 (c. 49).
 - (4) 1988 c. 53; section 25 was amended by section 90 of, and paragraphs 140 and 142 of Schedule 13 to, the Access to Justice Act 1999 (c. 22), section 165 of, and paragraph 118 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and section 109 of, and paragraph 311 of Schedule 8 to, the Courts Act 2003 (c. 39).
 - (5) 1988 c. 53; section 27 was amended by regulations 2(2) and 3 and paragraph 3 of Schedule 2 to S.I. 1990/144, section 48 of, and paragraph 91 of Schedule 4 to, the Road Traffic Act 1991 (c. 40), paragraphs 140 and 144 of Schedule 13 to the Access to Justice Act 1999 (c. 22), paragraph 120 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 16(5) of the Child Support, Pensions and Social Security Act 2000 (c. 19), and paragraph 313 of Schedule 8 to the Courts Act 2003 (c. 39). Section 27 is further amended by section 304 of, and paragraphs 52 and 53 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44), section 10 of, and paragraphs 30 and 33 of Schedule 3, and Schedule 7 to, the Road Safety Act 2006 (c. 49) and section 58(1) of, and Part 4 of Schedule 7 to, the Welfare Reform Act 2009 (c. 24), with effect from a date to be appointed.
 - (6) 2000 c. 6; section 146(4) was amended by section 91(1) of, and paragraphs 72 and 73 of Schedule 5, and Schedule 6 to, the Crime (International Co-operation) Act 2003 (c. 32). Section 147(5) was amended by section 91 of, and paragraphs 72 and 74 of Schedule 5, and Schedule 6 to, the Crime (International Co-operation) Act 2003 (c. 32). It is further amended by section 10(12) and 59 of, and paragraphs 71 and 73(1) and (2) of Schedule 3 and Schedule 7 to, the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.

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For the circumstances in which the court—

- (a) *must usually order endorsement, see sections 9, 44 and 96 of, and Schedule 2 to, the 1988 Act(7);*
- (b) *may (and in some cases must) order disqualification from driving, see sections 26(8), 34(9), 35(10) and 36 of the 1988 Act; and sections 146 and 147 of the 2000 Act(11);*
- (c) *may suspend a disqualification from driving pending appeal, see section 39 of the 1988 Act(12);*
- (d) *may remove a disqualification from driving imposed under section 34 or 35 of the 1988 Act, see section 42 of the Act.]*

Statutory declaration to avoid fine after fixed penalty notice

55.3.—(1) This rule applies where—

- (a) a chief officer of police, or the Secretary of State, serves on the magistrates' court officer a certificate registering, for enforcement as a fine, a sum payable by a defendant after failure to comply with a fixed penalty notice;
- (b) the court officer notifies the defendant of the registration; and
- (c) the defendant makes a statutory declaration with the effect that—
 - (i) the fixed penalty notice, or any associated notice sent to the defendant as owner of the vehicle concerned, and
 - (ii) the registration and any enforcement proceedingsbecome void.

(2) The defendant must serve that statutory declaration not more than 21 days after service of notice of the registration, unless the court extends that time limit.

(3) The court officer must—

- (a) serve a copy of the statutory declaration on the person by whom the certificate was registered,

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- (7) 1988 c. 53; section 44 was amended by regulations 2(2) and 3 and paragraph 10 of Schedule 2 to, S.I. 1990/144 and section 9(1) and (2)(a) of the Road Safety Act 2006 (c. 49). It is further amended by sections 10 and 59 of, and Schedule 7 to, the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (8) 1988 c. 53; section 26 was substituted by section 25 of the Road Traffic Act 1991 (c. 40) and amended by paragraph 119 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraphs 140 and 143 of Schedule 13 to the Access to Justice Act 1999 (c. 22), paragraph 2 of Schedule 2 to S.I. 1996/1974, paragraph 312(b) of Schedule 8 to the Courts Act 2003 (c. 39) and paragraphs 32 and 34 of Schedule 5 to the Crime (International Co-operation) Act 2003 (c. 32). Section 26 is further amended by sections 10 and 59 of, and paragraphs 30 and 32 of Schedule 3, and Schedule 7 to, the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (9) 1988 c. 53; section 34 was amended by section 29(1), (2) and (3) of the Road Traffic Act 1991 (c. 40), section 3(2) of, the Aggravated Vehicle-Taking Act 1992 (c. 11), section 165(1) of, and paragraph 121 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 25(2) of the Road Safety Act 2006 (c. 49) and article 2(1)(b) of S.I. 2007/3480. It is further amended by section 177(1) of, and paragraph 90 of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.
 - (10) 1988 c. 53; section 35 was amended by section 48 of, and paragraph 95(1), (3), (4), (5), (6) and (7) of Schedule 4 to, the Road Traffic Act 1991 (c. 40), and section 165(1) of, and paragraph 122 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6). It is further amended by section 177(1) of, and 90(1) and (6) of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.
 - (11) 2000 c. 6; section 146 was amended by section 91(1) of, and paragraphs 72 and 73 of Schedule 5, and Schedule 6 to, the Crime (International Co-operation) Act 2003 (c. 32), section 304 of, and paragraphs 90 and 120 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44), and section 148(1) of, and paragraphs 40 and 47 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4). Section 147 was amended by section 91 of, and paragraphs 72 and 74 of Schedule 5, and Schedule 6 to, the Crime (International Co-operation) Act 2003 (c. 32). It is further amended by sections 10(12) and 59 of, and paragraphs 71 and 73(1), (2) and (3) of Schedule 3 and Schedule 7 to, the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (12) 1988 c. 53.

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- (b) cancel any endorsement on the defendant's driving record and on any counterpart licence, and
- (c) notify the Secretary of State of any such cancellation.

[Note. See sections 72(1), (6), (6A), 73(1) and 74(2) of the Road Traffic Offenders Act 1988(13).

For the circumstances in which—

- (a) *a sum may be registered for enforcement as a fine after failure to comply with a fixed penalty notice, see sections 54(14), 55, 62(15), 63(16), 64, 70(17) and 71(18) of the 1988 Act;*
- (b) *the registration may become void on the making of a statutory declaration by the defendant, see sections 72(19) and 73(20) of the 1988 Act.]*

Application for declaration about a course or programme certificate decision

55.4.—(1) This rule applies where the court can declare unjustified—

- (a) a course provider's failure or refusal to give a certificate of the defendant's satisfactory completion of an approved course; or
 - (b) a programme provider's giving of a certificate of the defendant's failure fully to participate in an approved programme.
- (2) A defendant who wants the court to exercise that power must—
- (a) apply in writing, not more than 28 days after—
 - (i) the date by which the defendant was required to complete the course, or
 - (ii) the giving of the certificate of failure fully to participate in the programme;
 - (b) serve the application on the court officer; and
 - (c) in the application, specify the course or programme and explain (as applicable)—
 - (i) that the course provider has failed to give a certificate,
 - (ii) where the course provider has refused to give a certificate, why the defendant disagrees with the reasons for that decision, or

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- (13) 1988 c. 53; section 72(1) was amended by paragraphs 140 and 151 of Schedule 13 to, the Access to Justice Act 1999 (c. 22).
 - (14) 1988 c. 53; section 54 was amended by regulations 2(2) and 3 of, and paragraph 15 of Schedule 2 to, S.I. 1990/144, sections 48 and 83 of, and paragraph 103 of Schedule 4 and Schedule 8 to, the Road Traffic Act 1991 (c. 40), sections 76 and 108 of the Police Reform Act 2002 (c. 30) and sections 5, 9(6) and 59 of, and paragraphs 1, 3 and 9 of Schedule 1 to, and paragraphs 2 and 14 of Schedule 2 to, the Road Safety Act 2006 (c. 49). It is further amended by sections 10(1) and (3), the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (15) 1988 c. 53; section 62 was amended by section 5 of, and paragraphs 1 and 7 of Schedule 1 to, the Road Safety Act 2006 (c. 49).
 - (16) 1988 c. 53; section 63 was amended by section 5 of, and paragraphs 1 and 8 of Schedule 1 to, the Road Safety Act 2006 (c. 49).
 - (17) 1988 c. 53; section 70 was amended by section 109 of, and paragraph 316 of Schedule 8 to, the Courts Act 2003 (c. 39) and sections 5, 9(6) and 59 of, and paragraphs 1 and 12 of Schedule 1, paragraphs 2 and 21 of Schedule 2 and paragraph 7 to, the Road Safety Act 2006 (c. 49).
 - (18) 1988 c. 53; section 71 was amended by section 63 of, and paragraph 25(1) of Schedule 3 to, the Vehicle Excise and Registration Act 1994 (c. 22), sections 90(1) and 106 of, and paragraphs 140 and 150(1) and (2) of Schedule 13, and table 7 of Schedule 15 to, the Access to Justice Act 1999 (c. 22), section 109(1) of, and paragraph 317(1) and (2) of Schedule 8 to, the Courts Act 2003 (c. 39) and section 9(6) of, and paragraphs 2 and 22 of Schedule 2 to, the Road Safety Act 2006 (c. 49). It is further amended by section 9(6) of, and paragraphs 2 and 22 of Schedule 2 to, the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (19) 1988 c. 53; section 72 was amended by regulations 2(2) and 3 of, and paragraph 20 of Schedule 2 to S.I. 1990/144, section 90 of, and paragraphs 140 and 151 of Schedule 13 to, the Access to Justice Act 1999 (c. 22) and sections 5 and 9 of, and paragraphs 1 and 13 of Schedule 1 and paragraphs 2 and 23 of Schedule 2 to, the Road Safety Act 2006 (c. 49). It is further amended by sections 10 and 59 of, and paragraphs 30 and 50 of Schedule 3, and Schedule 7 to, the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (20) 1988 c. 53; section 73 was amended by section 90 of, and paragraphs 140 and 151 of Schedule 13 to, the Access to Justice Act 1999 (c. 22) and sections 5 and 59 of, and paragraphs 1 and 14 of Schedule 1 and Schedule 7 to, the Road Safety Act 2006 (c. 49).

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(iii) where the programme provider has given a certificate, why the defendant disagrees with the reasons for that decision.

(3) The court officer must serve a copy of the application on the course or programme provider.

(4) The court must not determine the application unless the defendant, and the course or programme provider, each has had an opportunity to make representations at a hearing (whether or not either in fact attends).

[Note. For the circumstances in which the court may reduce a road traffic penalty on condition that the defendant attend an approved course, or take part in an approved programme, see sections 30A(21), 34A(22) and 34D(23) of the Road Traffic Offenders Act 1988.

Under sections 30B(24), 34B(25) and 34E(26) of the 1988 Act, the court that made the order, or the defendant's local magistrates' court, on application by the defendant may review a course or programme provider's decision that the defendant has not completed the course satisfactorily, or has not participated fully in the programme.]

Appeal against recognition of foreign driving disqualification

55.5.—(1) This rule applies where—

- (a) a minister gives a disqualification notice under section 57 of the Crime (International Co-operation) Act 2003(27); and
- (b) the person to whom it is given wants to appeal under section 59 of the Act(28) to a magistrates' court.

(2) That person ('the appellant') must serve an appeal notice on—

- (a) the court officer, at a magistrates' court in the local justice area in which the appellant lives; and
- (b) the minister, at the address given in the disqualification notice.

(3) The appellant must serve the appeal notice within the period for which section 59 of the 2003 Act provides.

(4) The appeal notice must—

- (a) attach a copy of the disqualification notice;

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- (21) 1988 c. 53; section 30A is inserted by section 34(1) and (3) of the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (22) 1988 c. 53; section 34A was inserted by section 30 of the Road Traffic Act 1991 (c. 40). It is amended by section 177(1) and (2) of, and paragraphs 30 and 90(1) and (3) of Schedule 21 and paragraphs 30 and 31 of Schedule 22 to, the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.
 - (23) 1988 c. 53; section 34D is inserted by section 15(1) of the Road Safety Act 2006 (c. 49), with effect from a date to be appointed. It is amended by section 177(1) of, and paragraph 90(1) and (5) of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.
 - (24) 1988 c. 53; section 30B is inserted by section 34(1) and (3) of the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (25) 1988 c. 53; section 34B was inserted by section 30 of the Road Traffic Act 1991 (c. 40) and amended by paragraphs 140, 145 and 146 of Schedule 13 and Part V of Schedule 15 to, the Access to Justice Act 1999 (c. 22). Section 34B is substituted by section 35 of the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (26) 1988 c. 53; section 34E is inserted by section 15(1) of the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.
 - (27) 2003 c. 32; section 57 is in force in relation only to an offence of which an offender has been convicted in Ireland. For remaining purposes, it will come into force on a date to be appointed.
 - (28) 2003 c. 32; section 59 is in force in relation only to an offence of which an offender has been convicted in Ireland. For remaining purposes, it will come into force on a date to be appointed. Section 59 was amended by article 2 of, and paragraph 97 of the Schedule to, S.I. 2005/886.

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- (b) explain which of the conditions in section 56 of the 2003 Act⁽²⁹⁾ is not met, and why section 57 of the Act therefore does not apply; and
 - (c) include any application to suspend the disqualification, under section 60 of the Act⁽³⁰⁾.
- (5) The minister may serve a respondent’s notice, and must do so if—
- (a) the minister wants to make representations to the court; or
 - (b) the court so directs.
- (6) The minister must—
- (a) unless the court otherwise directs, serve any such respondent’s notice not more than 14 days after—
 - (i) the appellant serves the appeal notice, or
 - (ii) a direction to do so;
 - (b) in any such respondent’s notice—
 - (i) identify the grounds of opposition on which the minister relies,
 - (ii) summarise any relevant facts not already included in the disqualification and appeal notices, and
 - (iii) identify any other document that the minister thinks the court will need to decide the appeal (and serve any such document with the notice).
- (7) Where the court determines an appeal—
- (a) the general rule is that it will do so at a hearing (which will be in public, unless the court otherwise directs); but
 - (b) it may do so without a hearing.
- (8) The court officer must serve on the minister—
- (a) notice of the outcome of the appeal; and
 - (b) notice of any suspension of the disqualification; and
 - (c) the appellant’s driving licence, if surrendered to the court officer.

[Note. Section 56 of the Crime (International Co-operation) Act 2003 sets out the conditions for recognition in the United Kingdom of a foreign driving disqualification, and provides that section 57 of the Act applies where they are met. Under section 57, the appropriate minister may, and in some cases must, give the person concerned notice that he or she is disqualified in the UK, too, and for what period.

Under section 59 of the 2003 Act, that person may appeal to a magistrates’ court. If the court is satisfied that section 57 of the Act does not apply in that person’s case, the court must allow the appeal and notify the minister. Otherwise, it must dismiss the appeal.

The time limit for appeal under section 59 of the 2003 Act is the end of the period of 21 days beginning with the day on which the minister gives the notice under section 57. That period may be neither extended nor shortened.

Under section 60 of the 2003 Act, the court may suspend the disqualification, on such terms as it thinks fit.

⁽²⁹⁾ 2003 c. 32; section 56 is in force in relation only to an offence of which an offender has been convicted in Ireland. For remaining purposes, it will come into force on a date to be appointed.

⁽³⁰⁾ 2003 c. 32; section 60 is in force in relation only to an offence of which an offender has been convicted in Ireland. For remaining purposes, it will come into force on a date to be appointed. Section 60 was amended by section 40(4) of, and paragraph 79 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

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Under section 63 of the 2003 Act(31), it is an offence for a person to whom the minister gives a notice under section 57 not to surrender any licence that he or she holds, within the same period as for an appeal.]”

(31) 2003 c. 32; section 63 is in force in relation only to an offence of which an offender has been convicted in Ireland. For remaining purposes, it will come into force on a date to be appointed. Section 63 is amended by sections 10(12) and 59 of, and paragraphs 74 and 75 of Schedule 3, and Schedule 7 to, the Road Safety Act 2006 (c. 49), with effect from a date to be appointed.