

*Penalties for*  
**Road Traffic  
OFFENCES**



P N NIEKIRK

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# ***Penalties for Road Traffic Offences***

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194-7  
N666

*Schedule 4 to the Road Traffic Act 1972 as amended  
with editorial notes and additions*

*Compiled by  
**Paul H Niekirk MA**  
of Gray's Inn, barrister*

**Oyez Longman** 

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# *Introduction*

The idea adopted by the draftsman of the Road Traffic Act 1972 of setting out in a schedule (Schedule 4) the mode of trial, penalties and liability to disqualification or endorsement for road traffic offences was an attractive one, and one might have expected it to be a practical one. Alas, scarcely a year has passed since 1972 in which Schedule 4 has not been amended. Most recently, the Criminal Justice Act 1982 has prospectively increased almost every monetary penalty and converted it into a 'level' on the 'standard scale'.

In the hope that the aim of the draftsman of the original Schedule 4 might be realised, this booklet endeavours to incorporate the many and complex amendments into the schedule, and adds, as briefly as possible, notes indicating the justification for the text as it stands at present. The law is generally stated as it stood at 1 November 1982 when the penalty points system, which has (without authority) been added to the schedule, came into operation. Also noted are amendments which have been enacted but which await being brought into force. The following notes describe more fully the editorial amendments and additions made.

## *General*

All references in the notes to sections or schedules are references to provisions of the Road Traffic Act 1972, unless otherwise indicated.

The references in the last column of the table to amending enactments have been added editorially. The abbreviations used are set out on p 7.

*'The Secretary of State'*

References to the 'Secretary of State' in the Road Traffic Act 1972 as originally enacted were references to the Secretary of State for the Environment. Responsibility for matters under this legislation generally was transferred to the Secretary of State for Transport (by the Secretary of State for Transport Order 1979); then to the Minister of Transport (by the Minister of Transport Order 1979); and back to the Secretary of State for Transport (by the Transfer of Functions (Transport) Order 1981). Effect has been given to these changes in the entries in the table, but references to these alterations have not been included in the last column of the table except where an Order has expressly amended such entries.

*'Levels' of fine*

The references to 'levels' of fine have been added editorially and are references to levels on the standard scale of fines for summary offences to be introduced, with effect from a date to be announced, by the Criminal Justice Act 1982, s 37, and the Criminal Procedure (Scotland) Act 1975, s 289G. The levels prescribed by the Act are as follows:

<i>Level</i>	<i>Amount of fine</i>
1	£25
2	£50
3	£200
4	£500
5	£1,000

These amounts may be varied by Order.

One of the effects of the Criminal Justice Act 1982 is to increase most of the penalties listed (s 38(6)) and to substitute a reference to the level for an amount (s 46(1)). These changes will take effect when Part III of the Act is brought into operation. (For Scotland, see the Criminal Procedure (Scotland) Act 1975, ss 289F(8) and 289G(4), respectively.)

References to the Criminal Justice Act 1982 are only included in the last column of the table when the effect of the Act on a particular provision is other than an increase in penalty effected by s 38(6) and a change in style of reference to penalties effected under s 46(1) from a stated amount to a level. (Corresponding changes are also made by Scottish legislation enacted in the 1982 Act.)

## Introduction

### *'The prescribed sum'*

The 'prescribed sum' referred to in column 4 of the table in the entries relating to ss 2, 99(b), 169(1) and 175 is at present £1,000: see the Magistrates' Courts Act 1980, s 32 (in Scotland, the Criminal Procedure (Scotland) Act 1975, s 289B(6); the prospective substitution of s 289B(6) in the 1975 Act by the Criminal Justice Act 1982, s 55(2) is immaterial for this purpose).

### *'Penalty points'*

The references to 'penalty points' have been added editorially by reference to the Transport Act 1981, Sched 7, as amended.

*The 4 penalty points indicated as applicable to offences where disqualification is obligatory are applicable when, for special reasons, the court decides not to order disqualification:* see the Transport Act 1981, Sched 7 (Part I), as substituted by the Transport Act 1982, s 58. It should be noted, however, that a person aiding, etc, the commission of an offence involving obligatory disqualification is liable to incur 10 penalty points: *ibid*.

### *Additional provisions as to prosecution*

The sections of the Road Traffic Act 1972 referred to in column 7 of the table refer (in broad terms) to the following subject-matter:

s 179	Notice of intended prosecution
s 180	Time within which summary proceedings for certain offences must be commenced
s 181	Evidence by certificate
s 183	Proof, in summary proceedings, of identity of driver of vehicle

The paragraphs of Part IV of Schedule 4 to which reference is made are reproduced on pp 43–45.





# Abbreviations

*The following abbreviations have been used in the table:*

CJA 1982	Criminal Justice Act 1982
CLA 1977	Criminal Law Act 1977
CP(S)A 1975	Criminal Procedure (Scotland) Act 1975
HCVA 1973	Heavy Commercial Vehicles (Controls and Regulations) Act 1973
MCA 1980	Magistrates' Courts Act 1980
RTA 1974	Road Traffic Act 1974
RT(DA&HW)A 1976	Road Traffic (Drivers' Ages and Hours of Work) Act 1976
TA 1978	Transport Act 1978
TA 1981	Transport Act 1981
TA 1982	Transport Act 1982
1976 Order	Secretary of State for Transport Order 1976 (SI 1976 No 1775)
1979 Order	Minister of Transport Order 1979 (SI 1979 No 571)
1981 Order	Transfer of Functions (Transport) Order 1981 (SI 1981 No 238)

# Schedule 4 to the

## Part I:

1 <i>Provision</i>	2 <i>General nature of offence</i>	3 <i>Mode of prosecution</i>	4 <i>Punishment</i>
1	Causing death by reckless driving	On indictment	5 years or, in the case of a conviction by a court in Scotland other than the High Court of Justiciary, 2 years
2	Reckless driving	(a) Summarily	6 months or the prescribed sum (within the meaning of section 32 of the Magistrates' Court Act 1980 or, in Scotland, of section 289B of the Criminal Procedure (Scotland) Act 1975) or both
		(b) On indictment	2 years or a fine or both
3	Careless, and inconsiderate, driving	Summarily	£500 [level 4]

# Road Traffic Act 1972

## Offences under the Road Traffic Act 1972

5 <i>Disqualification</i>	6 <i>Endorsement</i>	7 <i>Additional provisions</i>	<i>Amendments</i>
Obligatory	Obligatory 4 penalty points	Section 181 and paragraph 3 of Part IV of this Schedule apply	CLA 1977, s 65(5), Sched 13
(a) Obligatory, if committed within 3 years after a previous conviction of an offence under section 1 or 2	Obligatory When disqualification obligatory, 4 penalty points; when discretionary, 10 penalty points	Sections 179, 181 and 183 and paragraphs 1, 2, 3, 5 and 6 of Part IV of this Schedule apply	CLA 1977, ss 28(8), 65(5), Sched 5 (para 2), Sched 13; CP(S)A 1975, s 289B, Sched 7B; MCA 1980, s 154(1), Sched 7 (para 112)
(b) Discretionary if committed otherwise than as mentioned in paragraph (a) above			
Discretionary	Obligatory 2-5 penalty points	Sections 179, 181 and 183 and paragraphs 3A, 4, 5 and 7 of Part IV of this Schedule apply [in Scotland, for '3A, 4, 5' above, read '4']	CLA 1977, ss 31(1), 65(4), Schedules 6, 12; CP(S)A 1975, s 289C, Sched 7C

1 <i>Provision</i>	2 <i>General nature of offence</i>	3 <i>Mode of prosecution</i>	4 <i>Punishment</i>
5(1)	Driving or attempting to drive when unfit to drive through drink or drugs	Summarily	6 months or £1,000 or both [level 5]
5(2)	Being in charge of a motor vehicle when unfit to drive through drink or drugs	Summarily	3 months or £500 or both [level 4]
<i>Old drink/drive provisions:</i>			
6(1)	Driving or attempting to drive with blood-alcohol concentration above the prescribed limit	Summarily	6 months or £1,000 or both [level 5]
6(2)	Being in charge of a motor vehicle with blood-alcohol concentration above the prescribed limit	Summarily	3 months or £500 or both [level 4]
8(3)	Failing to provide a specimen of breath for a breath test	Summarily	£50 [level 3]
9(3)	Failing to supply a specimen of blood or urine for a laboratory test	Summarily	<p>(i) Where it is shown that at the relevant time (as defined in Part V of this Schedule) the offender was driving or attempting to drive a motor vehicle on a road or other public place, 6 months or £1,000 or both [level 5]</p> <p>(ii) Where in any other case it is shown that at that time the offender was in charge of a motor vehicle on a road or other public place, 3 months or £500 or both [level 4]</p>

# Offences under the Road Traffic Act 1972

5 <i>Disqualification</i>	6 <i>Endorsement</i>	7 <i>Additional provisions</i>	<i>Amendments</i>
Obligatory	Obligatory 4 penalty points	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply	CLA 1977, s 30(1), Sched 1; CP(S)A 1975, ss 283A, 289A, Sched 7A
Discretionary	Obligatory 10 penalty points	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply	CLA 1977, s 30(1), Sched 1; CP(S)A 1975, ss 283A, 289A, Sched 7A
<i>until TA 1981 amendments effective</i>			
Obligatory	Obligatory 4 penalty points	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply	CLA 1977, s 30(1), Sched 1; CP(S)A 1975, ss 283A, 289A, Sched 7A
Discretionary	Obligatory 10 penalty points	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply	CLA 1977, s 30(1), Sched 1; CP(S)A 1975, ss 283A, 289A, Sched 7A; TA 1982, Sched 5 (para 26)
—	—	Sections 181 and 183 apply	TA 1982, Sched 5 (para 26)
(a) Obligatory if it is shown as mentioned in paragraph (i) of column 4	Obligatory When disqualification obligatory, 4 penalty points; when discretionary, 10 penalty points	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply	CLA 1977, s 30(1), Sched 1; CP(S)A 1975, ss 283A, 289A, Sched 7A; TA 1982, Sched 5 (para 26)
(b) Discretionary if it is not so shown			

1 Provision	2 General nature of offence	3 Mode of prosecution	4 Punishment
<i>New drink/drive provisions:</i>			
6(1)(a)	Driving or attempting to drive with excess alcohol in breath, blood or urine	Summarily	6 months or £1,000 or both [level 5]
6(1)(b)	Being in charge of a motor vehicle with excess alcohol in breath, blood or urine	Summarily	3 months or £500 or both [level 4]
7(4)	Failing to provide a specimen of breath for a breath test	Summarily	£50 [level 3]
8(7)	Failing to provide specimen for analysis or laboratory test	Summarily	(a) Where the specimen was required to ascertain ability to drive or proportion of alcohol at the time offender was driving or attempting to drive, six months or £1,000 or both [level 5]  (b) In any other case three months or £500 or both [level 4]
14	Motor racing and speed trials on highways	Summarily	£200 [level 4]
15	Other unauthorised or irregular competitions or trials on highways	Summarily	£100 [level 3]
16	Carrying passenger on motor-cycle contrary to section 16	Summarily	£50 [level 3]
17	Reckless cycling	Summarily	£50 [level 3]

# Offences under the Road Traffic Act 1972

5 <i>Disqualification</i>	6 <i>Endorsement</i>	7 <i>Additional provisions</i>	<i>Amendments</i>
<i>effective from a date to be announced</i>			
Obligatory	Obligatory 4 penalty points	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply	CLA 1977, s 30(1), Sched 1; CP(S)A 1975, ss 283A, 289A, Sched 7A; TA 1981, s 30(3), Sched 9 (para 19)
Discretionary	Obligatory 10 Penalty points	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply	CLA 1977, s 30(1), Sched 1; CP(S)A 1975, ss 283A, 289A, Sched 7A; TA 1981, s 30(3), Sched 9 (para 19)
Discretionary	Obligatory 4 penalty points	Sections 181 and 183 apply	TA 1981, s 30(3), Sched 9 (para 20)
(a) Obligatory in case mentioned in paragraph (a) of column 4	Obligatory When disqualification obligatory, 4 penalty points; when discretionary, 10 penalty points	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply	CLA 1977, s 30(1), Sched 1; CP(S)A 1975, ss 283A, 289A, Sched 7A; TA 1981, s 30(3), Sched 9 (para 21)
(b) Discretionary in any other case			
Obligatory	Obligatory 4 penalty points	Sections 181 and 183 apply	RTA 1974, s 21(2), Sched 5 (Part III)
—	—	—	RTA 1974, s 21(2), Sched 5 (Part III)
Discretionary	Obligatory 1 penalty point	Sections 181 and 183 apply	RTA 1974, s 21(2), Sched 5 (Part III)
—	—	Sections 179, 181 and 183 apply	RTA 1974, s 21(2), Sched 5 (Part III); CLA 1977, s 65(5), Sched 13



1 <i>Provision</i>	2 <i>General nature of offence</i>	3 <i>Mode of prosecution</i>	4 <i>Punishment</i>
18	Careless, and inconsiderate, cycling	Summarily	£20 [level 1]
19	Cycling when unfit through drink or drugs	Summarily	£50 [level 3]
20	Unauthorised or irregular cycle racing or trials of speed on highways	Summarily	£20 [level 1]
21	Carrying passenger on bicycle contrary to section 21	Summarily	£20 [level 1]
22	Failing to comply with traffic directions	Summarily	£100 [level 3]
23	Pedestrian failing to stop when directed by constable regulating traffic	Summarily	£50 [level 3]
24	Leaving vehicles in dangerous positions	Summarily	£100 [level 3]
25(4)	Failing to stop after accident and give particulars or report accident	Summarily	£1,000 [level 5] (for offences committed before 1 December 1981, £100)