

Road Safety Act 2006 – Life Saving Legislation?

By Caroline Bray.

The Road Safety Act 2006 received Royal Assent on 8th November 2006. It is coming into force now as can be seen from the table at Annexe 1 at the end of this article.

Most provisions which change the penalties or type of charge available will only apply to driving committed after the relevant commencement date but it is always worth checking the Act. Also head to www.statutelaw.gov.uk to check for updates and commencement orders.

Why new law?

The simple answer is Government targets and strategy. In 2000 the Government launched a road safety strategy called “Tomorrow’s Roads – Safer for Everyone”. The main aim of that strategy is to reduce road casualties significantly by 2010. This Act gives legislative force and effect to a fair chunk of the strategy with the aim of improving road safety.

How?

When fully implemented, the Act makes a number of changes to the existing Road Traffic Act 1988 and the Road Traffic Offenders Act 1988 and in its own right.

The Act is structured as follows:

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| Sections 1-2 | Payments for Road Safety |
| Sections 3-7 | Fixed penalties |
| Sections 8-10 | New system of endorsement |
| Section 11-12 | Deposits and prohibition on driving |
| Sections 13-16 | Drink-driving etc. |
| Sections 17-19 | Speeding |
| Sections 20-22 | New offences |
| Sections 23-29 | Increases in penalties |
| Sections 30-33 | Other provisions about offences |

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| Sections 34-35 | Attendance on courses |
| Sections 36-43 | Driving standards |
| Sections 44-46 | Regulation of registration plate suppliers |
| Sections 47-49 | Information |
| Sections 50-51 | Level Crossings |
| Sections 52-54 | Hackney Carriages and private hire vehicles |
| Sections 55-58 | Miscellaneous |
| Sections 59-63 | Supplementary |

This article will focus on the changes to the drink driving laws, the introduction of new offences and a look at some of the changes in penalties.

Drink Driving

The Act allows the Secretary of State to require that the worst offenders re-take their driving test.

Section 13 deals with “high risk offenders”. High risk offenders are those disqualified for driving whilst two and half times or more over the prescribed limit; those disqualified for failure, without reasonable excuse, to supply a specimen for analysis pursuant to section 7 of the RTA; and those disqualified on two or more occasions within ten years for either exceeding the legal limit of alcohol in their breath, blood, or urine, or being unfit to drive through drink.

When a High Risk Offender applies for the return of their licence after a ban they will not have entitlement to drive (as most would under S.88 RTA 1988) until relevant medical enquiries have been made. Those considered a greater risk of being medically unfit to drive are thus prevented from doing so until the Secretary of State is satisfied that they are fit to do so.

Section 14 adds the offence of failing to allow a specimen to be subjected to a laboratory test (section 7A(6) of the RTA 1988). Where a person is guilty of an offence under section 7A(6) the endorsement will remain effective for a period of eleven years from the conviction.

Section 15 will introduce a new scheme of using “alcohol ignition interlocks”. This is a scheme which an offender can enter into and pay for if they want a reduction in their driving ban. The offender must have been convicted of a second relevant offence within 10 years and must be about to receive a ban of 2 years or more before they can be offered the course. The course lasts no less than 12 months and involves counselling as well as a condition that the offender can only drive a vehicle fitted with an alcohol ignition interlock system. Failure to comply with the conditions or fully participate in the course will result in the offender having to serve the full original ban. The scheme will be the subject of an experimental period to see if it can work and will not be offered to those causing death by careless driving when under the influence of drink or drugs.

The aim here as with all existing provisions is to use punishment and rehabilitation together to reduce the risk of re-offending. It will be interesting to see whether, when implemented, section 15 will be used by offenders and how practical a scheme it really is given the use of alcohol ignition interlocks. Whilst it is not entirely clear from the Act what the costs will be it would seem that the offender will have to meet the cost of having the device fitted as well as the course costs. Will the offender have to pay again to have the device removed at the end of the order? Is this an order that means the affluent will be able to continue to drive whilst subject to a ban and the lower income offenders will not? I guess we have to wait and see.

New Offences

The Act introduces new offences of causing death by careless or inconsiderate driving; causing death by driving whilst unlicensed, disqualified, or uninsured; and keeping a vehicle that does not meet insurance requirements.

Causing Death by Careless or Inconsiderate Driving

Section 20: Inserts a new offence at S. 2B into the RTA 1988 of causing death by careless, or inconsiderate, driving. This new offence is an alternative verdict where an allegation of causing death by dangerous driving has been unsuccessful and as an alternative to causing death by careless driving when under the influence of drink or drugs. Conversely a conviction for careless and inconsiderate driving is available as an alternative to this new

offence. This new offence is triable either way and on indictment carries a maximum of 5 years imprisonment. Disqualification from driving is mandatory.

Any Coroners inquest will be adjourned pending the outcome of the criminal trial. It is unlikely that the coroner will seek to resume an inquest following a criminal prosecution for causing death by careless or inconsiderate driving, though there may be exceptional circumstances where there is reason to do so.

If the offender is not a UK national then the Secretary of State will inform the authorities in the relevant country that their national has been convicted of this offence.

Section 30 of the new Act inserts a new section 3ZA into the RTA 1988 and defines the meaning of driving without due care and attention for the purposes of the offence of causing death by careless or inconsiderate driving. This definition is already in use for the existing offences of careless driving and causing death by careless driving when under the influence of drink or drugs.

(2) A person is to be regarded as driving without due care and attention if (and only if) the way he drives falls below what would be expected of a competent and careful driver.

(3) In determining for the purposes of subsection (2) above what would be expected of a careful and competent driver in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

(4) A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving."

This section came into force on 18th August 2008 and will apply to any driving committed after that date. This is an offence which has long been called for by grieving families and friends and the media who always criticised the courts limited powers of imposing a fine as punishment when careless driving resulted in a death.

Causing Death by Driving whilst Unlicensed, Disqualified, or Uninsured

Section 21 creates this new offence of Causing Death whilst Unlicensed, Disqualified or Uninsured as inserted at S.3ZB RTA 1988. Since 18th August 2008 it is an offence to cause a death by driving when any one of the three conditions applies.

Unsurprisingly this offence is also triable either way and in the Crown Court the maximum sentence available is 2 years. It carries mandatory disqualification. As with the offence of Death by Careless or Inconsiderate driving any Coroners inquest will be adjourned until the outcome of a criminal trial. As this offence is not directly linked to the standard of driving, it is likely that the Coroner will usually continue with the inquest after the trial.

If the offender is not a UK national then the Secretary of State will inform the authorities in the relevant country that their national has been convicted of this offence.

Offences relating to insurance

Section 22 introduces a number of new provisions relating to insurance including a new offence of being the registered keeper of a vehicle the use of which is not insured.

The Act also provides powers for the Secretary of State to issue fixed penalty notices, and in appropriate cases powers to seize and dispose of uninsured vehicles.

Penalties for Speeding and Other Offences

As well as new offences the Act provides for a whole array of new sentences, penalties and schemes that can be employed for certain offences. There are too many to address at length here but some examples of what has changed will make for a useful snapshot.

For speeding offences the range of points is amended so that between 2 and 6 can be awarded. It is also an offence to drive a vehicle fitted with a speed assessment equipment detection device. This offence is punishable in the same way as a speeding offence.

Emergency vehicles are still exempt from the speeding provisions but only as long as the driver has completed high speed driving training. The Secretary of State may by regulations make provision about courses of high speed driving training.

The Act increases the maximum penalties for various road traffic offences and provides for the graduation of fixed penalties for offences and in circumstances specified by order.

Some examples:

Section 23: The fine available for Careless, and Inconsiderate Driving is increased from level 4 to level 5 (£5000)

Section 24: A fine for breach of the requirements of a child sitting in the rear seat to wear a seatbelt is increased from £200 to £500 (level 2) and is therefore the same as for a child sitting in the front seat.

Section 25: A second conviction for using vehicle in dangerous condition committed within three years of the first will result in obligatory disqualification.

Section 27: Failing to stop when required under S.163 RTA 1988 will attract a fine of up to £5000.

Section 29: It is now 6 points on your licence if you fail to provide information as to the identity of a driver. This is to deter people from failing to complete the notices sent out which often led to no or to failed prosecutions.

There is a new two stage system (Sections 8-10) which will mean that non-licensed or foreign drivers can be given on the spot fines and their records can be endorsed to greater effect.

Summary

Road traffic law has always been one of the most intricate areas of law. This Act does nothing to simplify that element, however that was not its purpose and it is difficult to see how new legislation on this already heavily legislated and intricately complex area could be simple.

The purpose of the Act is to save lives and whilst some of the new provisions can be clearly linked to this aim I am not entirely convinced that some of the punitive elements of this Act will actually help to achieve this goal, particularly where the offences involve carelessness. However, the Act is still new and in the early stages of implementation. As can be seen from the table below, only parts of the Act are currently in force, and so at the moment the question remains; can this Act really make “Tomorrow’s Roads – Safer for Everyone”?

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Annexe 1

Is it in force?

The following provisions of the Road Safety Act 2006 have been brought into force by commencement orders.

Section 14

Sections 23 – 25

Section 26

Sections 27 – 29

Section 30 in so far as section 3ZA of the Road Traffic Act 1988 has effect for the purposes of sections 3 and 3A of that Act

Section 31 – 33

Section 36

Section 40

Section 41

Section 43

Section 44

Section 45

Section 46

Section 50

Section 52

Section 53

Section 54

Section 55

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)

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)

AND...in the latest commencement order:

2. The following provisions of the Road Safety Act 2006 came into force on 18th August 2008—

(a) section 20;

(b) section 21; and

(c) section 30, to the extent not already commenced.