



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART I

TRIAL

Verdict

23 Alternative verdicts in Scotland.

(1) If on the trial on indictment in Scotland of a person for culpable homicide in connection with the driving of a [^{F1} mechanically propelled vehicle] by him the jury are not satisfied that he is guilty of culpable homicide but are satisfied that he is guilty of [^{F2} any of the relevant offences], they may find him guilty of that offence.

[^{F3}(1A) For the purposes of subsection (1) above the following are the relevant offences—

- (a) an offence under section 1 of the Road Traffic Act 1988 (causing death by dangerous driving),
 - [an offence under section 1A of that Act (causing serious injury by dangerous driving),]
- ^{F4}(aa) driving,]
- (b) an offence under section 2 of that Act (dangerous driving), and
- (c) an offence under section 3A of that Act (causing death by careless driving when under influence of drink or drugs).]

^{F5}(2)

(3) If on the trial on indictment in Scotland of a person for stealing a motor vehicle the jury are not satisfied that he is guilty of stealing the motor vehicle but are satisfied that he is guilty of an offence under section 178 of that Act (taking motor vehicle without authority etc.), they may find him guilty of an offence under that section.

Textual Amendments

- F1** Words in s. 23(1) substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, [Sch. 4 para. 90\(2\)\(a\)](#); [S.I. 1992/1286, art. 2](#), Sch.

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- F2** Words in s. 23(1) substituted (24.9.2007) by Road Safety Act 2006 (c. 49), ss. 32(2), 61(1)(10); S.I. 2007/2472, art. 2(j)
- F3** S. 23(1A) inserted (24.9.2007) by Road Safety Act 2006 (c. 49), ss. 32(3), 61(1)(10); S.I. 2007/2472, art. 2(j)
- F4** S. 23(1A)(aa) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 27 para. 3; S.I. 2012/2770, art. 2(g)
- F5** S. 23(2) repealed (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, 83, Sch. 4 para. 90(3), Sch.8; S.I. 1992/1286, art. 2, Sch.Appendix

[^{F6} **24 Alternative verdicts: general.**

[Where—

- ^{F7}(A1) (a) a person charged with manslaughter in connection with the driving of a mechanically propelled vehicle by him is found not guilty of that offence, but
- (b) the allegations in the indictment amount to or include an allegation of any of the relevant offences,

he may be convicted of that offence.

(A2) For the purposes of subsection (A1) above the following are the relevant offences—

- (a) an offence under section 1 of the Road Traffic Act 1988 (causing death by dangerous driving),
- [an offence under section 1A of that Act (causing serious injury by dangerous driving),]
- ^{F8}(aa) (b) an offence under section 2 of that Act (dangerous driving),
- [an offence under section 3ZC of that Act (causing death by driving: disqualified drivers),]
- ^{F9}(ba) (bb) an offence under section 3ZD of that Act (causing serious injury by driving: disqualified drivers),]
- (c) an offence under section 3A of that Act (causing death by careless driving when under influence of drink or drugs), and
- (d) an offence under section 35 of the Offences against the Person Act 1861 (furious driving).]

(1) Where—

- (a) a person charged with an offence under a provision of the Road Traffic Act 1988 specified in the first column of the Table below (where the general nature of the offences is also indicated) is found not guilty of that offence, but
- (b) the allegations in the indictment or information (or in Scotland complaint) amount to or include an allegation of an offence under one or more of the provisions specified in the corresponding entry in the second column,

he may be convicted of that offence or of one or more of those offences.

Offence charged

Section 1 (causing death by dangerous driving)

Alternative

Section 2 (dangerous driving)

[^{F10}Section 2B (causing death by careless, or inconsiderate, driving)]

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	Section 3 (careless, and inconsiderate, driving)
[^{F11} Section 1A (causing serious injury by dangerous driving)]	[^{F11} Section 2 (dangerous driving)][^{F12} Section 2C (causing serious injury by careless, or inconsiderate, driving)]
	[^{F11} Section 3 (careless, and inconsiderate, driving)]
Section 2 (dangerous driving)	Section 3 (careless, and inconsiderate, driving)
[^{F13} Section 2B (causing death by careless, or inconsiderate, driving)]	[^{F13} Section 3 (careless, and inconsiderate, driving).]
[^{F14} Section 2C (causing serious injury by careless, or inconsiderate, driving)]	Section 3 (careless, and inconsiderate, driving]
[^{F15} Section 3ZC (causing death by driving: disqualified drivers)]	[^{F15} Section 103(1)(b) (driving while disqualified)]
[^{F15} Section 3ZD (causing serious injury by driving: disqualified drivers)]	[^{F15} Section 103(1)(b) (driving while disqualified)]
Section 3A (causing death by careless driving when under influence of drink or drugs)	[^{F16} Section 2B (causing death by careless, or inconsiderate, driving)]
	Section 3 (careless, and inconsiderate, driving)
	Section 4(1) (driving when unfit to drive through drink or drugs)
	Section 5(1)(a) (driving with excess alcohol in breath, blood or urine)
	Section 7(6) (failing to provide specimen)
	[^{F17} Section 7A(6) (failing to give permission for laboratory test)]
Section 4(1) (driving or attempting to drive when unfit to drive through drink or drugs)	Section 4(2) (being in charge of a vehicle when unfit to drive through drink or drugs)
Section 5(1)(a) (driving or attempting to drive with excess alcohol in breath, blood or urine)	Section 5(1)(b) (being in charge of a vehicle with excess alcohol in breath, blood or urine)
[^{F18} Section 5A(1)(a) and (2) (driving or attempting to drive with concentration of specified controlled drug above specified limit)]	[^{F18} Section 5A(1)(b) and (2) (being in charge of a vehicle with concentration of specified controlled drug above specified limit)]

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Section 28 (dangerous cycling)

Section 29 (careless, and inconsiderate, cycling)

- (2) Where the offence with which a person is charged is an offence under section 3A of the Road Traffic Act 1988, subsection (1) above shall not authorise his conviction of any offence of attempting to drive.
- (3) Where a person is charged with having committed an offence under section 4(1) [^{F19}, 5(1)(a) or 5A(1)(a) and (2)] of the Road Traffic Act 1988 by driving a vehicle, he may be convicted of having committed an offence under the provision in question by attempting to drive.
- (4) Where by virtue of this section a person is convicted before the Crown Court of an offence triable only summarily, the court shall have the same powers and duties as a magistrates' court would have had on convicting him of that offence.
- (5) Where, in Scotland, by virtue of this section a person is convicted under solemn procedure of an offence triable only summarily, the penalty imposed shall not exceed that which would have been competent on a conviction under summary procedure.
- (6) This section has effect without prejudice to section 6(3) of the Criminal Law Act 1967 (alternative verdicts on trial on indictment), [^{F20}sections 295, 138(4), 256 and 293 of and Schedule 3 to the Criminal Procedure (Scotland) Act 1995] and section 23 of this Act.]

Textual Amendments

- F6** S. 24 substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), **s. 24**; S.I. 1992/1286, art. 2, **Sch.**
- F7** S. 24(A1)(A2) inserted (24.9.2007) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 33**, 61(1)(10); S.I. 2007/2472, **art. 2(k)**
- F8** S. 24(A2)(aa) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 27 para. 4(2)**; S.I. 2012/2770, art. 2(g)
- F9** S. 24(A2)(ba)(bb) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 6 para. 3(2)(a)** (with s. 29(5)); S.I. 2015/778, art. 3, Sch. 1 para. 75
- F10** Words in s. 24(1) inserted (18.8.2008) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 20(2)(a)**, 61(1)(10); S.I. 2008/1918, art. 2(a)
- F11** Words in s. 24(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 27 para. 4(3)**; S.I. 2012/2770, art. 2(g)
- F12** Words in s. 24(1) Table inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(i), **Sch. 8 para. 2(2)(a)**
- F13** Entry in s. 24(1) inserted (18.8.2008) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 20(2)(b)**, 61(1)(10); S.I. 2008/1918, art. 2(a)
- F14** Words in s. 24(1) Table inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(i), **Sch. 8 para. 2(2)(b)**
- F15** Words in s. 24(1) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 6 para. 3(3)** (with s. 29(5)); S.I. 2015/778, art. 3, Sch. 1 para. 75
- F16** Words in s. 24(1) inserted (18.8.2008) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 20(2)(c)**, 61(1)(10); S.I. 2008/1918, art. 2(a)
- F17** Words in s. 24(1) inserted (24.9.2007) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 31(4)**, 61(1)(10); S.I. 2007/2472, art. 2(i)
- F18** Words in s. 24(1) inserted (2.3.2015 for E.W., 1.3.2018 for S., 1.3.2018 for N.I.) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 22 para. 11(2)** (with Sch. 22 para. 14); S.I. 2014/3268, art. 2; S.I. 2018/161, art. 2; S.I. 2018/162, art. 2

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- F19** Words in s. 24(3) substituted (2.3.2015 for E.W., 1.3.2018 for S., 1.3.2018 for N.I.) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 22 para. 11\(3\)](#) (with [Sch. 22 para. 14](#)); [S.I. 2014/3268](#), art. 2; [S.I. 2018/161](#), art. 2; [S.I. 2018/162](#), art. 2
- F20** Words in s. 24(6) substituted (1.4.1996) by [1995 c. 40](#), ss. 5, 7(2), [Sch. 4 para. 71\(3\)](#)

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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):

- s. 29(2A) inserted by [2006 c. 49 s. 34\(2\)](#)
- s. 30A-30D inserted by [2006 c. 49 s. 34\(3\)](#)
- s. 30C(5)(f) words substituted by [S.I. 2009/1885 Sch. 1 para. 15](#)
- s. 34A(7A) inserted by [2009 c. 25 Sch. 21 para. 90\(3\)\(d\)](#)
- s. 34B(12) added by [2009 c. 25 Sch. 21 para. 90\(4\)\(c\)](#)
- s. 34D-34G inserted by [2006 c. 49 s. 15\(1\)](#)
- s. 34D(1)(d) words inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(a\)](#)
- s. 34D(3) words inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(b\)](#)
- s. 34D(5A) inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(c\)](#)
- s. 34D(6)(a) words substituted by [2009 c. 25 Sch. 21 para. 90\(5\)\(d\)\(i\)](#)
- s. 34D(6)(b) words substituted by [2009 c. 25 Sch. 21 para. 90\(5\)\(d\)\(ii\)](#)
- s. 34D(6A) inserted by [2009 c. 25 Sch. 21 para. 90\(5\)\(e\)](#)
- s. 34F(5)(f) words substituted by [S.I. 2009/1885 Sch. 1 para. 17](#)
- s. 35A(6)(a) words substituted by [2012 c. 10 Sch. 13 para. 8\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 35A(6) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), ss. 30(1)(c), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 25)
- s. 35A(6)(b) words inserted by [2012 c. 10 Sch. 13 para. 8\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 35A(6) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), ss. 30(1)(c), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 25)
- s. 36(13A) inserted by [2006 c. 49 s. 37\(6\)](#)
- s. 40B(9) words substituted by [2006 c. 49 Sch. 2 para. 33](#)
- s. 41B inserted by [2006 c. 49 s. 15\(2\)](#)
- s. 84(1) s. 84 renumbered as s. 84(1) by [2004 c. 28 s. 16\(3\)](#)
- s. 84(2)(3) inserted by [2004 c. 28 s. 16\(3\)](#)
- Sch. 1 para. 3(aa) inserted by [2006 c. 49 s. 15\(3\)\(a\)](#)
- Sch. 1 para. 4(za) inserted by [2006 c. 49 s. 15\(3\)\(b\)](#)