

Delegated Powers Memorandum – The Road Traffic Offenders (Surrender of Driving Licences Etc) Bill

Memorandum by the Department for Transport

Introduction

1. This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Road Traffic Offenders (Surrender of Driving Licences Etc) Bill (“the Bill”). The Bill had its first reading on 1 May 2018. This memorandum identifies the provisions of the Bill that confer powers to make delegated legislation. It explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.

Purpose and effect of the Bill

2. This Bill provides measures designed to streamline the fixed penalty, conditional offer and court processes for road traffic offences by removing licence surrender requirements, save for disqualification.

Background

3. The surrender of driving licences was an essential part of the road traffic offences process when we still had paper counterparts which needed to be endorsed by the court or the fixed penalty office with details of traffic offences and penalty points.
4. However, since the paper counterpart was abolished in June 2015 all records of road traffic offences and penalty points are held electronically on the DVLA’s driver record and no physical documents are endorsed by the court. This means that licence surrender no longer serves the same practical purpose.

Changes to fixed penalty and conditional offer processes for road traffic offences

5. The Bill would remove the requirement to surrender a driving licence as part of the fixed penalty notice and conditional offer processes for road traffic offences. This would mean that licences would no longer have to be handed over or posted in before a person could validly accept a fixed penalty notice or conditional offer. It would also amend the fixed penalty notice procedure to remove “provisional fixed penalty notices” (where a licence was not produced on the spot) and allow police constables and vehicle examiners to issue a fixed penalty notice without having to obtain the physical driving licence where they are reasonably satisfied of the person’s identity.

Changes to the court processes for road traffic offences

6. In cases where the court might disqualify a driver, the driver would be required to bring their licence to the hearing (if there is one given many cases

are dealt with by a single justice on the papers without a hearing) and where the driver is disqualified the court would have the power to require the surrender of the licence. Where a driver was disqualified but did not attend the hearing, or did not produce their licence to the court, the Secretary of State (in practice to the DVLA) would be empowered to require surrender of the licence within 28 days by notice in writing. If a person failed, without reasonable excuse, to do so they would have committed an offence and be liable to a level three fine.

Clause 7: Extent, commencement and short title

Power conferred on: the Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: none.

Context and Purpose

7. The clause makes standard provision for the Secretary of State to bring the Bill into force by commencement regulations. It provides the commencement regulations may make transitional, transitory or saving provision and may appoint different days for different purposes or areas in order ensure Bill can be brought into force in an orderly manner.

Justification for taking the power

8. Commencement by regulations allows substantive provisions to be brought into force at a convenient time.
9. Powers to make transitional provision are often included as part of the power to make commencement orders or commencement regulations and, as such, are not subject to any parliamentary procedure on the grounds that Parliament has already approved the principle of the provisions in the Bill by enacting them.

Justification for the procedure

10. As is usual, commencement regulations made under this clause would not be subject to any Parliamentary procedures. Parliament has approved the principle of the provisions to be commenced by enacting them.

Department for Transport
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