



Prifysgol Cymru
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Road Related Offences : ASB.



By the end of the lesson learners will be able to:

1. Explain the offences related to Section 3 and Section 34 Road Traffic Act 1988.
2. Explain what powers are available to deal with offences that contravene Section 3 and Section 34 Road Traffic Act 1988.
3. Identify how evidence is recorded if a person has committed an offence of careless driving or has driven a motor vehicle off road.
4. Demonstrate how to issue a warning using the Notice of Seizure of Motor Vehicle ticket book (Form T323).

Section 59 Police Reform Act 2002



- To educate driver attitudes towards road safety
- To gather intelligence and information in an effort to identify persistent offenders
- To use legislative Powers as a means of deterring such Anti-Social behaviour
- To provide reassurance to members of the business community and the general public Anti-Social Behaviour will not be tolerated
- The legislation is section 59 of the Police Reform Act 2002, which gives Constables / PCSO's in Uniform the power to seize vehicles from the drivers who persist in using motor vehicles in a manner which causing alarm, distress or annoyance to members of the public

Our Police Powers:

(3) Those powers are—

- (a) power, if the motor vehicle is moving, to order the person driving it to stop the vehicle;
- (b) power to seize and remove the motor vehicle;
- (c) power, for the purposes of exercising a power falling within paragraph (a) or (b), to enter any premises on which he has reasonable grounds for believing the motor vehicle to be;

(d) power to use reasonable force, if necessary, in the exercise of any power conferred by any of paragraphs (a) to (c).

Subsection (3)(c) does not authorise entry into a private dwelling house

In this section—

“private dwelling house” does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

As this reads, your power would allow you entry into free standing garages, gardens and driveways just not the dwelling itself or attached garages.

Section 59 Police Reform Act 2002

Where a constable in uniform has reasonable grounds for **believing** that a motor vehicle is being used on any occasion in a manner which:

- (a) contravenes [section 3](#) or [34](#) of the road traffic act 1988 (careless and inconsiderate driving and prohibition of off-road driving),
and
- (b) is causing, or is likely to cause, alarm, distress or annoyance to members of the public



Section 34 Road Traffic Act 1988

Off Road Driving

A person commits an offence if they without lawful authority **drive** an **MPV** on either:

Any **common land**, moorland or any **land not forming part of a road**

On any **road** being a **footpath, bridleway**, or restricted byway

.....**unless**

they drive the **MPV** on any *land within 15 yards of a road* for the *purpose of parking the vehicle* on the land, or is driven there to *save life or extinguish a fire*.



Drive - that person as well as any other person engaged in the driving of the vehicle, and drive is to be interpreted accordingly

- (i) The terms 'drive' and 'driving' appear on numerous occasions in road traffic legislation, however, when someone is or is not 'driving' a motor vehicle is not defined by statute. There is a large volume of case law relating to this particular subject and the majority of it has appeared as a consequence of the drink/driving provisions. The subject may be summed up fairly simply - Whether or not someone is driving is predominantly a matter of fact and degree, and the court or jury will make the final decision in each individual case. Case law has laid down a test R v [McDonagh 1974](#) which states - 'the essence of driving is the use of the driver's controls for the purpose of directing the movement of the car however the movement is produced'
- (ii) It is also possible for two people to be driving the same vehicle; see [Tyler v Whatmore](#).
- (iii) The law also recognises that certain vehicles, such as steam rollers, may have a 'steersman' who steers and a driver who controls the propulsion.

MPV - The term mechanically propelled vehicle is not defined in the Road Traffic Acts. It is ultimately a matter of fact and degree for the court to decide. At its most basic level it is a vehicle which can be propelled by mechanical means. It can include both electrically and steam powered vehicles.

Common Land - Section 22 of the Commons Registration Act 1965 defines common land as:

- land subject to 'rights of common' (see note (ii) below) whether those rights are exercisable at all times or only during limited periods;
- waste land of a manor not subject to rights of common;

but does not include a town or village green or any land which forms part of a highway.

Road - means any (length of) highway and any other road to which the public has access, and includes bridges over which a road passes.

It always includes obvious public highways, footpaths and bridle ways maintained by government agencies or local authorities. . To determine whether a place is a road raises the question of whether it is a road to which the general public have access (actual or legal). Its physical character is a defined or definable route or way with defined edges leading from one point to another which serves as a means of access enabling travellers to move conveniently from one point to another along a defined route. The question of whether a place constitutes a road is always one of fact.

A road generally stretches between boundary fences or grass verges along its sides and this includes any pavements.



Evidence

- The offence of careless driving or driving a motor vehicle off road (section 3 or 34 RTA 1988) **MUST** be committed
- This can be witnessed by a Police Officer or member of the public
- Consider how this evidence is recorded. There are several options open to you.
 - Pocket notebook
 - The ticket booklet (rear of ticket)
 - Force command system
 - Statement
- If it is witnessed by a member of the public then best practice would be to record a brief statement or signed PNB entry to negate civil claims

Action to be taken

- Stop vehicle (Section 163 RTA 1988)
- Issue Warning using the Notice of seizure of motor vehicle ticket book (form T.323) to the driver
- Check the database (PNC) for previous warnings

- If a previous warning has been issued then issue seizure notice (bottom half of ticket) and remove vehicle under the FMG scheme by contacting the JCC

The Warning



Is exact wording as set out in the legislation which is on the ticket and should be read to the driver

Relates to the driver of the vehicle and/or the vehicle



Stands for twelve months

The warning must always be completed even if the vehicle is being seized

The ticket must be legible (consider writing in capitals)

A vehicle registration must, if possible, be included. If there is no registration then chassis, engine or frame no. will suffice



A warning given on a previous occasion in that previous 12 months does **NOT** have to have been given in respect of the same vehicle.

The vehicle cannot be seized **unless** the warning is ignored.

A previous warning given on the **same occasion** need not have been given by the same constable NOR does it have to have been given to the same person OR in respect of the same vehicle.

It could have been given to the same person using another vehicle or to different person using the same vehicle.

This covers the situation where a number of people gathered together are using their vehicles anti-socially and swapping them around **it also needs to be stressed that its against the driver not the vehicle .**



Seizure

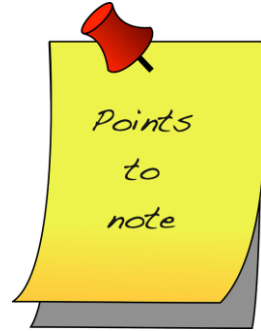
- One warning
- On the second warning the vehicle is seized
- Costs to be paid to recovery firm before vehicle can be claimed
- If not claimed before 7 days then the vehicle is disposed of
- The second warning restarts another 12 month period

Points to Note

Warning or seizure does not have to take place at the time of offence as the legislation states that the person to be warned should be the person who appears to have committed the offence

Power of entry onto any land and premises to seize vehicle (excludes the dwelling itself) which also includes a power of using reasonable force

Complete ticket fully and neatly and scan onto Niche and circulate on PNC



Section 165 Seizure Notice



Seizing vehicles with no insurance

Any motor vehicle stopped on a road that you have reasonable grounds to believe is being driven without insurance or a driving licence can be seized.

There is also a third option with respect to failing to stop where the vehicle can also be seized.

However this has to be done within 24 hours and a section 165 ticket issued to the driver.

To have the vehicle returned the offender has to pay the recovery fees and produce proof of driving licence, insurance and possibly ownership (if required.)

Section 165A Road Traffic Act 1988

CONSTABLE IN UNIFORM

REASONABLE GROUNDS TO BELIEVE

A MOTOR VEHICLE IS OR WAS BEING DRIVEN WITH NO INSURANCE (SEC 143)

OR

NO DRIVING LICENCE / DRIVING OTHERWISE THAN IN ACORDANCE WITH A LICENCE

OR

HAS FAILED TO STOP AND THERE ARE REASONABLE GROUNDS TO BELIEVE THE ABOVE

THEN THE VEHICLE IS SEIZED



Procedure

- THE OFFENDER WILL BE INFORMED OF THE SUSPECTED OFFENCES
- THE SEC 165A SEIZURE TICKET WILL BE ISSUED TO THE OFFENDER
- THE OFFENDER WILL BE REPORTED VIA TORS FOR ANY OFFENCES.
- THE VEHICLE WILL BE SEIZED

You only need reasonable grounds to utilise this legislation, but common sense should apply to all circumstances.

We shouldn't be seizing vehicles just because the driver cannot produce an insurance certificate at the time of request. Remember for no insurance purposes PNC is not totally reliable. Consider ringing the Motor Insurance Bureau who can obtain anyone's insurance details.

Driving licences are different due to the ability to check via PNC on the DVLA database.

Completion of the seizure notice is self explanatory please ensure that the details of the recovery firm are completed and the form is legible.

It is important that if the owner is not present at the time of seizure then the Keeper/Owner section is completed so that a notice of seizure can be sent to them by post

The designated stations for production of documents are listed on the rear of the seizure ticket. The offender does not have their choice of station at which to produce other than the list of available stations on the notice.

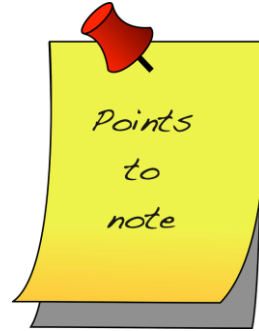
Points to Note

Driving otherwise than in accordance with a licence will obviously cover offences such as unsupervised learner

This legislation can be applied to disqualified drivers as they do not have insurance.

If it is not possible to seize the vehicle immediately because the person has driven off or failed to stop then it can only be seized within a period of 24hrs beginning from that time

There is a power to enter all premises (other than the actual dwelling itself) land, garages etc. pertaining to that dwelling are ok.





For the vehicle to be released the offender can nominate a third party who, on production of a driving licence and insurance policy covering them for use of the seized vehicle can have the release authorised

Vehicles will not be released until all recovery and storage fees are paid.



Uninsured Drivers

Every year the insurance industry pays out approximately £500 million for claims relating to uninsured driving. The cost is passed on to all honest motorists through insurance premiums and is estimated to increase insurance premiums by approx £30 per annum.

Uninsured Drivers are

- ☐ 3 times more likely to have been convicted of driving without due care and attention
- ☐ 6 times more likely to drive an unsafe vehicle
- ☐ 9 times more likely to be involved in a road traffic collision
- ☐ 10 times more likely to have a drink drive conviction



