



HORT 1

By the end of this lesson you will be able to:

1. State the police power relating to the requirement for the production of a driving licence, certificate of insurance, MOT Test Certificate and registration document.
2. State the police power to require an individual's date of birth relating to the use of a motor vehicle on a road.
3. Explain the police power to seize vehicles under Section 165 Road Traffic Act 1988.
4. Describe the process of issuing form HORT/1 and what is required of the recipient.

Any of the following persons -

- (a) a person driving a motor vehicle on a road,
- (b) a person whom a police constable or vehicle examiner has reasonable cause to believe to have been the driver of a motor vehicle at a time when an accident occurred owing to its presence on a road,
- (c) a person whom a constable or vehicle examiner has reasonable cause to believe to have committed an offence in relation to the use of a motor vehicle on a road, or
- (d) a person -
 - (i) who supervises the holder of a provisional licence while the holder is driving a motor vehicle on a road, or
 - (ii) whom a constable or vehicle examiner has reasonable cause to believe was supervising the holder of a provisional licence while driving, at a time when an accident occurred owing to the presence of the vehicle on a road or at a time when an offence is suspected of having been committed by the holder of the provisional licence in relation to the use of the vehicle on a road,

must, on being so required by a constable or vehicle examiner, produce his licence for examination, so as to enable the constable or vehicle examiner to ascertain the name and address of the holder of the licence, the date of issue, and the authority by which it was issued.

Section 164 Road Traffic Act 1988



Section 164 Road Traffic Act 1988 provides constables with a power to require the production of a driving licence.

Any of the following persons -

- (a) a person driving a motor vehicle (other than an invalid carriage) on a road, or
- (b) a person whom a constable or vehicle examiner has reasonable cause to believe to have been the driver of a motor vehicle (other than an invalid carriage) at a time when an accident occurred owing to its presence on a road or other public place, or
- (c) a person whom a constable or vehicle examiner has reasonable cause to believe to have committed an offence in relation to the use on a road of a motor vehicle (other than an invalid carriage),

must, on being so required by a constable or vehicle examiner, give his name and address and the name and address of the owner of the vehicle and produce the following documents for examination.

- A relevant certificate of insurance
- A valid test certificate

Section 165 Road Traffic Act 1988



Section 165 of the Road Traffic Act 1988 creates the power for a constable or vehicle examiner to obtain the names and addresses of drivers and owners of vehicles and require them to produce their certificates of insurance or security or test certificates

Driving Licence v Insurance & Test Certificate

The difference between a driving licence and insurance or test certificates concerns the word 'user'.

For the production of insurance and test certificates, when you believe an offence has been committed, you are not only concerned with someone 'driving', but also with the 'user' of the vehicle.

For example....., if a vehicle is parked on the road but there is no 'driver' in the car, and if you have reasonable cause to believe an offence has been committed, you can require the owner of the vehicle to produce insurance and test certificates.



Driving Licence v Insurance & Test Certificate

The difference between a driving licence and insurance or test certificates concerns the word 'owner'.

For the production of insurance and test certificates, when you believe an offence has been committed, you are not only concerned with someone 'driving', but also with the 'owner' of the vehicle.

For example....., if a vehicle is parked on the road but there is no 'driver' in the car, and if you have reasonable cause to believe an offence has been committed, you can require the owner of the vehicle to produce insurance and test certificates.



Registration Documents

A person **using** a vehicle in respect of which a registration document has been issued must produce the document for inspection on being so required by -

- (a) a constable, or
- (b) a person authorised by the Secretary of State for the purposes of this section (an authorised person).

A person is guilty of an offence if he fails to do so

Section 28A Vehicle Excise and Registration Act 1994



Section 28A of the Vehicle Excise and Registration Act 1994 provides constables and authorised persons with a power to require the person using a vehicle to produce its registration document on demand

Note that as with insurance and test certificates, this relates to a person **'using'** a vehicle and is not simply restricted to the act of driving.

Production of Documents

Documents must be produced at the time or if the driver is not able to produce at the time, within 7 clear days (not including the day the requirement was made, i.e. up until midnight on the seventh day), at a police station specified by them.

Failure to do so is an offence, unless the person can show that

It was produced there as soon as was as reasonably practicable

Or

It was not reasonably practicable for it to be produced there before the day on which proceedings were commenced



Exceptions to the requirement to produce within 7 days

- when the documents are produced at the specified police station as soon as was reasonably practicable
- in the case of registration document only where the person has reasonable grounds for believing, or it is reasonable for them to expect that the person from whom the vehicle has been leased or hired is able to produce, or require the production of the registration document,
- when it was not reasonably practicable to produce them at the specified police station before proceedings were commenced
- where a current receipt issued under Section 56 of the Road Traffic Offenders Act is produced (following the issue of an endorsable fixed penalty ticket).

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The words "as soon as is reasonably practicable" have been held to mean precisely what they say.

What period of time satisfies this test will obviously differ in each case depending on the defendant's circumstances.

The question of whether a defendant produced documents "as soon as was reasonably practicable" will be a question of fact for the magistrates in each case.

It may not be reasonably practicable for a driver to produce the required document within a certain period of time for any number of reasons.

For example, he may have lost his certificate, and, despite his best efforts, been unable to obtain a copy.

On the other hand he may have some convincing explanation as to why he was unable to take the required document to the police station.

A defendant may not always be able to establish a defence but such factors may act as powerful mitigation.

Production of Documents

Driving licences, unlike insurance certificates and test certificates, **must** be produced in person by the licence holder.

A motorcyclist who produces a provisional driving licence is also required to produce a certificate of completion of a compulsory basic training course for motorcyclists.



Driving licences must be produced in person.

Many insurance companies do not issue paper copies of insurance certificates as the information is stored electronically.

For the purposes of the legislation, a person will be treated as having produced the relevant certificate if:

Using electronic equipment provided by him or made available to him by the constable or the examiner, he provides the constable or the examiner with electronic access on the website in question to a copy of the certificate.

Note, however, that there is nothing in legislation that requires a constable or examiner to provide a person with electronic equipment for the purpose of compliance with a requirement to produce documentation.

A motorcyclist producing a provisional driving licence must also produce a valid certificate of completion of a Compulsory Basic Training (CBT) course as this is a requirement for individuals wishing to ride a motorcycle on a road under the terms of a provisional driving licence.

Power to Require Date of Birth

A person required by a constable to produce his licence must in prescribed circumstances, on being so required by the constable, state his date of birth.

The prescribed circumstances are:

(a) where that person fails to produce forthwith for examination his licence on being required to do so by a police constable under that section; or

(b) where, on being so required, that person produces a licence:

(i) which the police constable in question has reason to suspect was not granted to that person, was granted to that person in error or contains an alteration in the particulars entered on the licence (other than as described in paragraph (ii) made with intent to deceive; or

(ii) in which the driver number has been altered, removed or defaced;

(c) where that person is a person supervising a provisional licence holder and is reasonably suspected to be under 21 years of age.

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HO/RT 1

If a person cannot produce driving or vehicle documents at the time you should first check PNC to ascertain if all documentation is in order as driving licence, insurance and M.O.T details **may** be held.

If you are unable to ascertain these details, you should issue them with the HO/RT 1 form to be produced with them at a police station.



Information supplied to PNC by the Motor Insurance Database which comes from the Motor Insurers' Information Centre. Not all insurance companies are part of this organisation so if the PNC operator tells you 'not held' it doesn't necessarily mean the vehicle isn't insured.

This information is only searchable under sect 165 – not as part of a routine check. Operator will carry out vehicle check in the normal manner and when asked for insurance details will change the transaction code to bring up an extra page of information.

The operator should tell you if the insurance relating to the vehicle you are checking has expired in the last 7 days – again if the company involved subscribes to the database.

Details on PNC within 48 hours.

MIB can be accessed via FIS – Guidance – MIB police website
Insurance

A vehicles insurance status may be checked against the Motor Insurance Database (MID) within the vehicle enquiry transaction # VE or its multiple counterpart #VM. The option to view insurance details is provided if the vehicle summary screen indicates that the MID holds an Insurance record for the VRM.

The Motor Insurers Information Centre (MIIC) maintains this data collection and all insurance agencies supply current insurance information through the Association of British Insurers (ABI).

If there is no record of insurance returned to the operator performing the enquiry it does not necessarily mean that the driver is uninsured. The database may not yet have been updated with the current cover so if in doubt issue a HORT1. Insurance can only be viewed in accordance with Section 165 of the Road Traffic Act 1988.

This is the legislation that empowers you to issue a HORT1.

HO/RT 2

When the person produces the documents together with the form HO/RT 1 at the police station the officer or station officer records the required details on a form HO/RT 2.

If offences are disclosed when the documents are produced at the police station the officer or station officer will report the person for the offence(s).

This document will be forwarded to the relevant prosecutions department with your force who will inform the originating officer of the offence(s) (i.e. the officer who issued the HO/RT 1) and a statement will then be required for prosecution.



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Seizure of Vehicles

Sec 165A Road Traffic Act 1988 states that, if any of the **specified conditions** are satisfied in relation to a vehicle, a constable may:

- Seize the vehicle
- Remove the vehicle
- Enter any premises other than a private dwelling house on which he/she has reasonable grounds for believing the vehicle to be.



Section 165A Road Traffic Act 1988 deals with an additional power to seize a vehicle, and if necessary, enter premises to do so, if certain conditions apply.

Private dwelling house does not include any garage or other structure occupied with the dwelling house or any land belonging to the dwelling.

If the constable is unable to seize the vehicle immediately, because the person driving it has failed to stop as requested or driven off, the constable may seize it at any time within 24 hours starting from when the original condition was first satisfied.

Upon seizing the vehicle the officer will issue a seizure notice to the driver, unless the circumstances make it impracticable to do so.

A further seizure notice is sent later by registered post to the registered owner/keeper, where it appears that they are someone different.

The vehicle can be released if the registered owner/keeper of the vehicle pays the charges in respect of its seizure and produces a valid certificate of insurance and driving licence at a police station specified in the notice.

Charges are payable for the seizure and for the detention at a set rate for each 24 hour period or part thereof that the vehicle has been in custody.

Obviously the owner/keeper will not be liable to such charges if they prove that they were not driving the vehicle at the time it was seized and they did not know, had not consented to and could not have prevented it being driven.

After certain time restrictions, the vehicle can be disposed of if the owner/keeper fail to comply with any requirement on the seizure notice, or a seizure notice was not able to be given, despite reasonable steps having been taken.

Seizure of Vehicles – Specified Conditions

Requirement to produce driving licence

- Fails to produce licence
- Reasonable grounds to suspect vehicle being driven otherwise than in accordance with a licence

Requirement to produce insurance

- Fails to produce insurance
- Reasonable grounds to suspect vehicle being driven without insurance

Requirement for vehicle to stop

- Fails to stop
- Reasonable grounds to suspect vehicle being driven without licence/insurance



Before seizing the motor vehicle, the constable must warn the person by whom it appears that the vehicle is or was being driven that the officer will seize it.

The person must be warned that if they do not immediately produce the required documentation, i.e. driving licence and counterpart, or documentation showing that the vehicle was not being driven without insurance, then the vehicle will be seized.

There is no requirement for the officer to give such a warning if the circumstances make it impracticable to do so.



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