

Motoring Law

with Alison Muir of MCP



Q I already have 9 penalty points on my licence and have just received a further summons for speeding. Is there anything I can do to avoid being disqualified?

A Under section 35 of the Road Traffic Offenders Act 1988 drivers who accumulate 12 or more penalty points within any 3 year period are liable to a mandatory disqualification for a minimum period of 6 months. This is more commonly known as totting. The Court does have discretion to reduce the period of disqualification or not to disqualify at all but only if exceptional hardship exists. There is no set guidance on what may be deemed exceptional and it is for the Court to make its decision based on the facts of each case however, it is accepted that a driver would inevitably suffer hardship if they were to be disqualified and the fact of loss of employment might of itself be deemed insufficient.



Q I have already been to Court and successfully argued that I would suffer exceptional hardship so have avoided a disqualification. If I am summonsed for a further endorsable offence can I still use an exceptional hardship argument?

A This very much depends what was advanced as your argument on the last occasion in Court and when that hearing took place. Drivers may not put forward the same circumstances which have been used either for not disqualifying or for reducing the length of the totting up disqualification within 3 years of the conviction. It may be necessary to obtain a memorandum of conviction from the Court to help clarify the position.

Q My son has just passed his driving test and he was told that if he gets 6 or more points on his licence he will have his licence revoked. Can this be avoided?

A For the period of two years from when he became qualified, your son will be on his probationary driving period and will be subject to the Road Traffic Act (New Drivers) Act 1995. This means that if he acquires six or more penalty points within two years of qualifying his licence will be revoked by the Secretary of State. These provisions do not take effect however if the driver is disqualified for the offence itself so, for example, a short ban from driving for a speeding offence rather than penalty points would avoid a revocation.



Alison Muir is a Solicitor/Higher Court Advocate and Managing Partner of the King's Lynn office of Metcalfe, Copeman and Pettifar. As well as heading one of the largest criminal defence teams in the region, considered among the top three for criminal law in East Anglia by the Legal 500, she also oversees private prosecution work for government departments and local authorities.



The questions and answers on this page are intended to provide general information only. Every effort is made to ensure that the law is correct at the time of publication but no duty of care is assumed to any person and no liability accepted for any omission or inaccuracy. Each case is different and so you should always seek our specific advice.

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