2016 CHAPTER 11

PART 2 N.I.

Drink-driving

PROSPECTIVE

Fixed penalty offences

Graduated penalty points for certain drink-driving offences as fixed penalty offences N.I.

7 In Part 1 of Schedule 1 to the Offenders Order (prosecution and punishment of offences under the Road Traffic Orders)—

(a) in the entry relating to offences under Article 16(1)(a) of the Order of 1995 (driving or attempting to drive with excess alcohol in breath, blood or urine), in column (7), after "3-11" insert " or appropriate penalty points (graduated fixed penalty) ",

(b) in the entry relating to offences under Article 16(1)(b) of that Order (being in charge of a motor vehicle with excess alcohol in breath, blood or urine), in column (7), for "10" substitute " 3-11 or appropriate penalty points (graduated fixed penalty) ".

Reduced penalty for course completion N.I.

8.—(1) The Offenders Order is amended as follows.

(2) After paragraph (2) of Article 59 (provision that may be included in an order prescribing the amount of fixed penalty for a fixed penalty offence), insert—

"(2A) In relation to an offence which is specified in an order underArticle 57(2) as a fixed penalty offence, paragraph (2) shall be read as if the circumstances mentioned there include (in particular) also whether, by the relevant date, the offender satisfactorily completes an approved course specified in the fixed penalty notice or conditional offer in question.".

(3) After paragraph (3) of that Article, add—

"(4) In paragraph (2A)—

"an approved course" means a course approved by the Department for the purposes of Article 36 in relation to offences under the same statutory provision as the offence in question;

"conditional offer" means a notice under Article 80;

"the relevant date" means such date, not later than 6 months after the day on which the fixed penalty notice or conditional offer for the offence in question is given to the offender, as is specified in the notice or offer.".

(4) In paragraph (1) of Article 64A (effect of endorsement of driving record without hearing: penalty points attributable on conviction also attributable as fixed penalty), at the beginning insert " Subject to Article 64B, ".

(5) After that Article, insert—

"**Qualification of Articles 64A(1) and 82A(7): reduced penalty points for course completion**

64B.—(1) In relation to an offence which is specified in an order underArticle 57(2) as a fixed penalty offence, Article 30(3B) shall be read as if the circumstances mentioned there include (in particular) also whether, by the relevant date, the offender satisfactorily completes an approved course specified in the fixed penalty notice or conditional offer in question.

(2) For the purposes of paragraph (1), "an approved course", "conditional offer" and "the relevant date" each has the same meaning as in Article 59(4).".

(6) In paragraph (7) of Article 82A (effect of endorsement of driving record where fixed penalty under conditional offer paid: penalty points attributable on conviction also attributable as fixed penalty), at the beginning insert " Subject to Article 64B, ".

Status: *This version of this cross heading contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Road Traffic (Amendment) Act (Northern Ireland) 2016, Cross Heading: Fixed penalty offences. (See end of Document for details)*

Approved course: completion and failure to complete N.I.

9.—(1) After Article 59 of the Offenders Order (amount of fixed penalty for fixed penalty offence), insert—

"**Certificate of completion of approved course**

59A.—(1) This Article and Articles 59B and 59C apply where—

(a) the amount of fixed penalty for a fixed penalty offence, by virtue of an order under Article 59(1) (and pursuant to Article 59(2A)) is dependent on whether, by the relevant date, the offender satisfactorily completes an approved course, or

(b) the number of penalty points attributable to such an offence, by virtue of an order under Article 30(3A) (and pursuant to Article 64B(1)) is so dependent.

(2) An offender shall be regarded as having completed an approvedcourse satisfactorily only if a certificate that the offender has done so, given by the course provider, is received by the Chief Constable not later than 28 days after the relevant date.

(3) The course provider shall give a certificate referred to in paragraph(2) to the offender not later than 14 days after the relevant date unless the offender—

(a) fails to make due payment of fees for the course,

(b) fails to attend the course in accordance with the course provider's reasonable instructions, or

(c) fails to comply with any other reasonable requirement of the course provider.

(4) Where the course provider decides not to give a certificate referredto in paragraph (2) to the offender, the provider shall give written notice of the decision to the offender as soon as possible, and in any event not later than 14 days after the relevant date.

(5) An offender to whom notice is given under paragraph (4) may, notlater than 21 days after the date of the notice, apply to the Chief Constable for a declaration that the course provider's decision not to give a certificate referred to in paragraph (2) was contrary to paragraph (3).

(6) If the Chief Constable grants an application under paragraph (5), thecertificate referred to in paragraph (2) shall be treated for the purposes of that paragraph as having been duly received by the Chief Constable.

(7) If, 14 days after the relevant date, the course provider has given neither—

(a) a certificate referred to in paragraph (2), nor

(b) notice under paragraph (4),

the offender may, not later than 21 days after the 14th day, apply to the Chief Constable for a declaration that the course provider is in default.

(8) If the Chief Constable grants an application under paragraph (7), thecertificate referred to in paragraph (2) shall be treated for the purposes of that paragraph as having been duly received by the Chief Constable.

(9) Where the Chief Constable receives a certificate under paragraph(2), or grants an application under paragraph (5) or (7), notice of that fact must be sent by or on behalf of the Chief Constable to the Department.

(10) In—

(a) this Article, "an approved course" and "the relevant date" have the same meanings as in Article 59(4),

(b) this Article and Article 59B, "course provider" means the person by whom the course is, or is to be, provided.

Approved course completion: further provision

59B.—(1) A certificate referred to in paragraph (2) of Article 59A is tobe in such form and to contain such particulars as may be determined by the Department.

(2) Notice by a course provider under paragraph (4) of that Article shallspecify the ground on which it is given and be in such form as may be determined by the Department.

(3) Notice under that paragraph shall, for the purposes of that paragraph,be treated as given to the offender if it was sent by registered post or recorded delivery service addressed to the offender at his last known address, notwithstanding that it was returned as undelivered or was for any other reason not received by the offender.

(4) In the application of section 24 of the Interpretation Act (NorthernIreland) 1954 (service of documents) to giving notice under paragraph (4) of Article 59A, in subsection (1) the word "registering" is omitted.

(5) In determining, for the purposes of paragraph (5) or (7) of thatArticle, whether any instruction or requirement of a course provider was reasonable, the Chief Constable shall have regard to any guidance given to the provider under Article 38(1).

(6) Notice under paragraph (9) of Article 59A must be sent in suchmanner and to such address, and must contain such particulars, as the Department may determine.

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Failure to complete course: consequences

59C.—(1) Paragraph (2) applies where a certificate referred to inparagraph (2) of Article 59A that the offender has completed an approved course satisfactorily is neither—

(a) received by the Chief Constable in accordance with that paragraph, nor

(b) treated by virtue of paragraph (6) or (8) of that Article as having been duly received by the Chief Constable.

(2) Notice shall be given to the offender by or on behalf of the Chief Constable—

(a) specifying—

(i) the amount of fixed penalty to be paid in consequence of the offender's failure by the relevant date satisfactorily to complete an approved course,

(ii) the date by which the fixed penalty must be paid, and

(iii) the clerk of petty sessions to whom, and the address at which, it may be paid, and

(b) requiring the offender to deliver, in accordance with paragraph (3), the notice and (if the offender is the holder of a licence and the offence to which the notice relates is an offence involving obligatory endorsement) the offender's licence.

(3) The notice and (as the case may be) licence must be delivered by theoffender—

(a) in person,

(b) before the expiry of 14 days after the date of the notice,

(c) to a constable or authorised person at the police station specified in the notice.

(4) Notice must be given by or on behalf of the Chief Constable to thefixed penalty clerk of the giving of notice under paragraph (2) and the terms of any such notice.

(5) A licence surrendered in accordance with notice under paragraph (2)shall be sent to the fixed penalty clerk.

(6) An offender who fails to comply with notice under paragraph (2)commits an offence.

(7) Notice under paragraph (2) must be in such form as may bedetermined by the Department.

(8) Where, on the expiry of the period specified in any notice givenunder paragraph (2), the amount of fixed penalty specified in the notice has not been paid, the fixed penalty clerk must notify the Chief Constable.

(9) In this Article, "authorised person" has the same meaning as inrelation to a fixed penalty notice given at a police station (see Article 60(8)).".

(2) In paragraph (1) of Article 62 of the Offenders Order (receipt for licence on its surrender), after "Article 60" insert " or (as the case may be) notice under Article 59C(2) ".

(3) In Part 1 of Schedule 1 to that Order (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to offences under Article 38A(12) of that Order insert—

"Article 59C(6)	Failure to comply with notice under Article 59C(2) requiring payment of fixed penalty and delivery of licence.	Summarily.	Level 3 on the standard scale.".

Payment of fixed penalty: failure to complete course **N.I.**

10.—(1) In Article 61(3)(b) of the Offenders Order (effect of fixed penalty notice given under Article 60), after "period" add " or (as the case may be) the end of the period specified in a notice given to him in relation to the offence under Article 59C(2) ".

(2) In Article 74 of that Order (method of payment of fixed penalty)—

(a) in paragraph (1), after "notice" insert " or notice under Article 59C(2) ",

(b) in paragraph (2), after "notice" insert " , or (as the case may be) notice under Article 59C(2), ",

(c) in paragraph (3), after "notice" insert " , or (as the case may be) notice under Article 59C(2), ",

(d) in paragraph (5)—

(i) for "penalty or fixed penalty notice" substitute " penalty, fixed penalty notice or notice under Article 59C(2) ",

(ii) for "the fixed penalty notice" to the end, substitute " the notice in question ".

(3) In Article 75(4)(a) of that Order (registration certificate for enforcement of unpaid fixed penalty), after "notice" insert " or notice under Article 59C(2) ".

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Endorsement of further penalty points: failure to complete course N.I.

11.—(1) In Article 63A of the Offenders Order (endorsement of driving records without hearings)—

(a) in paragraph (1), after "Article 60" insert " or notice under Article 59C(2) ",

(b) in paragraph (3)—

(i) after "period" insert " or (as the case may be) of the Article 59C(2) notice period ",

(ii) after "Article 60" insert " or (as the case may be) in pursuance of notice under Article 59C(2) ",

(c) in paragraph (5)(b), after "period" insert " or (as the case may be) the end of the Article 59C(2) notice period ",

(d) after paragraph (6), add—

"(7) In this Article, "the Article 59C(2) notice period" means the periodspecified in a notice relating to the offence under Article 59C(2).".

(2) In Article 82A of that Order (endorsement of driving records where penalty under conditional offer paid)—

(a) in paragraph (1), after "Article 80(1)" insert " or (as the case may be) notice under Article 59C(2) ",

(b) in paragraph (2)(b), after "80(1A)" insert " or (as the case may be) notice under Article 59C(2) ",

(c) in paragraph (3)(b), after "conditional offer" insert " or (as the case may be) notice under Article 59C(2) ".

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