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STATUTORY INSTRUMENTS

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**1996 No. 1320**

**The Road Traffic Offenders (Northern Ireland) Order 1996**

**PART II**

**TRIAL**

*Introductory*

**Requirement of warning etc. of prosecutions for certain offences**

5.—(1) Subject to Article 6, a person shall not be convicted of an offence to which this Article applies unless—

- (a) he was warned at the time the offence was committed or within 24 hours thereafter that the question of prosecuting him for some one or other of the offences to which this Article applies would be taken into consideration, or
- (b) within 14 days of the commission of the offence a summons for the offence was served on him, or
- (c) within 14 days of the commission of the offence a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was—
  - (i) in the case of an offence under Article 42 or 43 of the Order of 1995 (cycling offences), served on him,
  - (ii) in the case of any other offence, served on him or on the person, if any, registered as the keeper of the vehicle at the time of the commission of the offence.

[<sup>F1</sup>(1A) Section 24 of the Interpretation Act (Northern Ireland) 1954 (service of documents) shall apply in relation to the service of notices required to be served by this Article as if in subsection (1) of that section the word “registering” were omitted.]

(2) A notice shall be deemed for the purposes of paragraph (1)(c) to have been served on a person if it was sent by registered post or recorded delivery service addressed to him at his last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by him.

(3) The requirement of paragraph (1) shall in every case be deemed to have been complied with unless and until the contrary is proved.

(4) This Article applies to—

[<sup>F2</sup>(a) an offence under any of the following provisions of the Road Traffic Regulation (Northern Ireland) Order 1997—

- (i) Article 7 (temporary traffic regulation) consisting in the contravention of a temporary speed limit under paragraph (3)(b) of that Article,
- (ii) Article 43 (contravening speed limit);]

(b) an offence under any of the following provisions of the Order of 1995—

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Road Traffic Offenders (Northern Ireland) Order 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (i) Article 10 (dangerous driving),
  - (ii) Article 12 (careless, and inconsiderate, driving),
  - (iii) Article 32 (leaving vehicles in dangerous positions),
  - (iv) Article 42 (dangerous cycling),
  - (v) Article 43 (careless, and inconsiderate, cycling),
  - (vi) Article 49<sup>F3</sup> or 50] (contravention of traffic directions or traffic signs);
  - (c) an offence consisting of the driving of a vehicle in contravention of any regulation made under the<sup>F3</sup> Road Traffic Regulation (Northern Ireland) Order 1997] with respect to traffic signs
- (5) The Department may by order, made subject to negative resolution, specify any other offence to which this Article is to apply.

- F1** Art. 5(1A) inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 28; S.R. 2007/302, art. 2, Sch.
- F2** Art. 5(4)(a) substituted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), Sch. 7 para. 16; S.R. 2007/302, art. 2, Sch.
- F3** 1997 NI 2

**Modifications etc. (not altering text)**

- C1** Art. 5 power to apply conferred (23.4.2012) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, Sch. 1 para. 8; S.R. 2012/16, art. 2, Sch.
- C2** Art. 5 power to apply conferred by S.I. 1981/154 (N.I. 1), Sch. 2A para. 7 (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), Sch. 3)
- C3** Art. 5 applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(a)}

**Requirement of warning etc: supplementary**

6.—(1) The requirement of Article 5(1) does not apply in relation to an offence if, at the time of the offence or immediately after it, an accident occurs owing to the presence on a road of the vehicle in respect of which the offence was committed.

(2) The requirement of Article 5(1) does not apply in relation to an offence in respect of which—

- (a) a fixed penalty notice (within the meaning of Part IV) has been given or fixed under any provision of that Part; or
- (b) a notice has been given under Article 60(4).

(3) Failure to comply with the requirement of Article 5(1) is not a bar to the conviction of the accused in a case where the court is satisfied—

- (a) that the accused was not prejudiced in his defence by the failure; or
- (b) that neither the name and address of the accused nor the name and address of the registered keeper, if any, could with reasonable diligence have been ascertained in time for a summons to be served or for a notice to be served or sent in compliance with the requirement; or
- (c) that the accused by his own conduct contributed to the failure.

(4) Failure to comply with the requirement of Article 5(1) in relation to an offence is not a bar to the conviction of a person of that offence by virtue of the provisions of—

- (a) Article 26; or

(b) section 6(2) of the Criminal Law Act (Northern Ireland) 1967;  
but a person is not to be convicted of an offence by virtue of any of those provisions if Article 5 applies to the offence with which he was charged and the requirement of Article 5(1) was not satisfied in relation to the offence charged.

### **Restriction on institution of proceedings for certain offences**

7.—<sup>[F4(1)]</sup> Proceedings for an offence under Article 11(3) of the Order of 1981 (notice about relevant or prospective disability) shall not be instituted except by the Department or by a constable acting with the approval of the Department.

<sup>[F4(2)]</sup> In paragraph (1) the reference to Article 11(3) of the Order of 1981 includes a reference to that provision as applied by Article 15D<sup>[F5]</sup> or 19H of that Order.]

<b>F4</b>	SR 1997/241
<b>F5</b>	<a href="#">2003 NI 16</a>

### **Jurisdiction in prosecutions under Articles 56 and 81(1) of the Order of 1981**

8. An offence under Article 56 of the Order of 1981 (or that Article as applied by Article 63 of that Order) or Article 81(1) of that Order may be treated, for the purpose of conferring jurisdiction on a court (but without prejudice to any jurisdiction it may have apart from this Article) as having been committed in any of the following places, that is to say—

- (a) the place where the person charged with the offence was driving when evidence of the offence first came to the attention of a constable or an examiner appointed under Article 74 of the Order of 1995;
- (b) the place where that person resides or is, or is believed to reside or be, at the time when the proceedings are commenced; or
- (c) the place where at that time that person or, in the case of an employee-driver, that person's employer or, in the case of an owner-driver, the person for whom he was driving, has his place or principal place of business or his operating centre for the vehicle in question.

### **Power to join in indictment counts for certain summary offences**

9.—(1) A count charging a person with a summary offence to which this Article applies may be included in an indictment if the charge—

- (a) is founded on the same facts or evidence as a count charging an indictable offence; or
- (b) is part of a series of offences of the same or similar character as an indictable offence which is also charged,

but only if (in either case) the facts or evidence relating to the offence were disclosed in a preliminary investigation or inquiry under the Magistrates' Courts (Northern Ireland) Order 1981.

(2) Where a count charging an offence to which this Article applies is included in an indictment, the offence shall be tried in the same manner as if it were an indictable offence; but the Crown Court may only deal with the offender in respect of it in a manner in which a court of summary jurisdiction could have dealt with him.

(3) This Article applies to—

- (a) an offence under either of the following provisions of the Order of 1981—
  - (i) Article 90 (using motor vehicle without insurance or security against third party risks),

- (ii) Article 175(2) (failure to comply with duties on occurrence of accident caused by a mechanically propelled vehicle);
  - (b) an offence under any of the following provisions of the Order of 1.995—
    - (i) Article 15(1) or (2) (driving or attempting to drive, or being in charge of, a mechanically propelled vehicle when under influence of drink or drugs),
    - (ii) Article 16(1)(a) or (b) (driving or attempting to drive, or being in charge of, a motor vehicle with alcohol concentration above the prescribed limit),
    - (iii) Article 18 (failing to provide specimen for analysis or laboratory test);
  - (c) any summary offence specified under paragraph (4).
- (4) The Secretary of State may by order specify for the purposes of this Article any summary offence—
- (a) which is mentioned in Schedule 1, and
  - (b) which is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.
- (5) For the purposes of this Article statements in writing admitted in evidence under Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981 shall be treated as depositions taken in the presence of the accused before the magistrates' court which committed him for trial.
- (6) An order made under this Article shall be subject to<sup>[F6]</sup> negative resolution].
- (7) In this Article “summary offence” means an offence which, if committed by an adult, is punishable only on summary conviction.

**F6** Words in art. 9(6) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 16(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**Modifications etc. (not altering text)**

**C4** Art. 9 functions of the Secretary of State are transferred to the Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(1)(2), **Sch. 1 para. 18** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**Time within which summary proceedings for certain offences must be commenced**

**10.**—(1) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981, summary proceedings for an offence to which this Article applies may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the complainant to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this Article more than 3 years after the commission of the offence.

(2) For the purposes of this Article a certificate signed by or on behalf of the complainant and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(3) This Article applies to—

- (a) an offence under any of the following provisions of the Order of 1981—

<sup>[F7]</sup>(iz) Article 9(13) (driving after making false declaration as to physical fitness),]

- (i) Article 11(3) (failure to notify Department of onset of, or deterioration in, relevant or prospective disability)<sup>[F8]</sup> and that provision as applied by Article 15D of that Order],

- [<sup>F9</sup>(ia) Article 11(3B) (driving after such a failure),
  - (ib) Article 11A (driving after refusal of licence under Article 9(3) or revocation under Article 10(1) or (2)),]
  - (ii) Article 15(7) (driving licence holder failing when his licence is revoked, to surrender it or, when his particulars become incorrect, to surrender the licence and counterpart and give particulars),
- [<sup>F8</sup>(iia) Article 15B(11) (driving after failure to comply with a requirement under Article 15B(6), (7) or (10)),]
  - (iii) Article 90 (using, etc. motor vehicle without insurance or security against third party risks),
- [<sup>F10</sup>(iiia) Article 168A(1) (applying for or obtaining a driving licence, or driving while disqualified),]
  - (iv) <sup>F11</sup> .....
  - (v) <sup>F11</sup> .....
  - (vi) <sup>F11</sup> .....
  - (vii) Article 174(1) (making false statements or withholding information in connection with applications for licences, etc.);
- (b) an offence under Article 72 of this Order.
- [<sup>F12</sup>(c) an offence under paragraph 3(5) of Schedule 1 to the Road Traffic (New Drivers) (Northern Ireland) Order 1998.]

<b>F7</b>	Art. 10(3)(a)(iz) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), <b>Sch. 7 para. 17(a)</b> ; S.R. 2007/454, <b>art. 2</b> , Sch.
<b>F8</b>	SR 1997/241
<b>F9</b>	Art. 10(3)(ia)(ib) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), <b>Sch. 7 para. 17(b)</b> ; S.R. 2007/454, <b>art. 2</b> , Sch.
<b>F10</b>	Art. 10(3)(a)(iiia) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), <b>Sch. 7 para. 17(c)</b> ; S.R. 2007/454, <b>art. 2</b> , Sch.
<b>F11</b>	Art. 10(3)(a)(iv)(v)(vi) repealed (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(2), <b>Sch. 8 Pt. I</b> ; S.R. 2007/454, <b>art. 2</b> , Sch.
<b>F12</b>	1998 NI 7

**Modifications etc. (not altering text)**

<b>C5</b>	Art. 10 power to apply conferred (23.4.2012) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, <b>Sch. 1 para. 8</b> ; S.R. 2012/16, <b>art. 2</b> , Sch.
<b>C6</b>	Art. 10 power to apply conferred by S.I. 1981/154 (N.I. 1), Sch. 2A para. 7 (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), <b>Sch. 3</b> )
<b>C7</b>	Art. 10 applied (1.7.2012) by Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 (c. 2), <b>ss. 45(2)</b> , 60(2); S.R. 2012/262, <b>art. 2</b>
<b>C8</b>	Art. 10 applied (prosp.) by Transport Act (Northern Ireland) 2011 (c. 11), <b>ss. 31(2)</b> , 48(2)
<b>C9</b>	Art. 10 applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(b)}

**Duty of accused to provide licence**

**11.** A person who is prosecuted for an offence involving obligatory or discretionary disqualification and who is the holder of a licence must—

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- (a) cause it to be delivered to the clerk of the court before which the proceedings are brought, not later than the day before the date appointed for the hearing, or
- (b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or
- (c) have it with him at the hearing;

and the foregoing obligations imposed on him as respects the licence also apply as respects the counterpart to the licence.

### **Duty to include date of birth and sex in written plea of guilty**

**12.** A person who gives notification to the clerk of petty sessions in pursuance of Article 24(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (written pleas of guilty) in respect of an offence involving obligatory or discretionary disqualification or such other offence as may be prescribed by regulations made under Article 19C of the Order of 1981 (regulations under Part II of that Order), must include in the notification a statement of the date of birth and sex of the accused.

## *Trial*

### **Mode of trial**

**13.** An offence against a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or against regulations made under such a provision (the general nature of which offence is indicated in column 2) shall be punishable as shown against the offence in column 3 (that is, on summary conviction or on indictment or in either one way or the other).

### **Evidence by certificate as to driver, user or owner**

**14.—(1)** In any proceedings for an offence under the Road Traffic Orders or any other statutory provision for the time being in force relating to the use of vehicles on roads, a certificate purporting to be signed by a member of the Royal Ulster Constabulary or a traffic warden and certifying that a person specified in the certificate stated to that member of the Royal Ulster Constabulary or to that traffic warden, as the case may be—

- (a) that a particular mechanically propelled vehicle was being driven or used by, or was in the charge of, or belonged to, that person on a particular occasion; or
- (b) that a particular mechanically propelled vehicle on a particular occasion was used by, or belonged to, a firm in which that person also stated that he was at the time of the statement a partner or an employee; or
- (c) that a particular mechanically propelled vehicle on a particular occasion was used by, or belonged to, a corporation of which that person also stated that he was at the time of the statement a director, officer or employee,

shall be admissible as evidence for the purpose of determining by whom the vehicle was being driven or used, or in whose charge it was, or to whom it belonged, as the case may be, on that occasion.

(2) Nothing in paragraph (1) makes a certificate admissible as evidence in proceedings for an offence except in a case where and to the like extent to which oral evidence to the like effect would have been admissible in those proceedings.

(3) Nothing in paragraph (1) makes a certificate admissible as evidence in proceedings for an offence—

- (a) unless a copy of the certificate has, not less than 7 days before the hearing or trial, been served on the person charged with the offence; or
- (b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice on the complainant or his solicitor requiring the attendance at the trial of the person who signed the certificate.

**Modifications etc. (not altering text)**

- C10** Art. 14 power to apply conferred (23.4.2012) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, **Sch. 1 para. 8**; S.R. 2012/16, **art. 2**, Sch.
- C11** Art. 14 power to apply conferred by S.I. 1981/154 (N.I. 1), Sch. 2A para. 7 (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), **Sch. 3**)
- C12** Art. 14 applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(c)}

**Proof, in summary proceedings, of identity of driver of vehicle**

15. Where in the summary trial for an offence to which Article 177 of the Order of 1981 (identification of drivers, etc. of vehicles) applies—

- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by magistrates' courts rules, that a requirement under Article 177 of that Order<sup>F13</sup> or Article 14(8) of the Road Traffic Regulation (Northern Ireland) Order 1997] to give information as to the identity of the driver of a particular vehicle on the particular occasion to which the complaint relates has been served on the accused; and
- (b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of that vehicle on that occasion,

the court may accept that statement as evidence that the accused was the driver of that vehicle on that occasion.

**F13** 1997 NI 2

**Modifications etc. (not altering text)**

- C13** By Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, **Sch. 1 para. 8** it is provided that in art. 15(1) there is power to apply conferred (23.4.2012); S.R. 2012/16, **art. 2**, Sch.
- C14** By S.I. 1981/154 (N.I. 1), Sch. 2A para. 7 (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), **Sch. 3**) it is provided that in art. 15(1) there is power to apply conferred.
- C15** Art. 15 applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(d)}

**Admissibility of records as evidence**

16.—(1) This Article applies to a statement contained in a document purporting to be—

- (a) a part of the records maintained by the Department in connection with any functions exercisable by the Department by virtue of the Road Traffic Orders or a part of any other records maintained by the Department with respect to vehicles; or
- (b) a copy of a document forming part of those records; or
- (c) a note of any information contained in those records;

and to be authenticated by a person authorised in that behalf by the Department.

(2) A statement to which this Article applies shall be admissible in any proceedings as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

[<sup>F14</sup>(3) In paragraphs (1) and (2)—

“document” means anything in which information any description is recorded;

“copy”, in relation to a document, means anything onto which information recorded in the document has been copied, by what ever means and whether directly or indirectly; and

“statement” means any representation of fact, however made.]

(4) In any case where—

(a) a statement to which this Article applies is produced to a court of summary jurisdiction in any proceedings for an offence involving obligatory or discretionary disqualification,

(b) the statement specifies an alleged previous conviction of an accused person of any such offence or any order made on the conviction,

(c) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed by magistrates' courts rules, that not less than 7 days before the statement is so produced a notice was served on the accused, in such form and manner as may be so prescribed, specifying the previous conviction or order and stating that it is proposed to bring it to the notice of the court in the event of or, as the case may be, in view of his conviction, and

(d) the accused is not present in person before the court when the statement is so produced, the court may take account of the previous conviction or order as if the accused had appeared and admitted it.

(5) Nothing in this Article shall enable evidence to be given with respect to any matter other than a matter of a description prescribed by magistrates' courts rules.

<b>F14</b> 1997 NI 21
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### **Use of records kept by operators of goods vehicles**

**17.** In any proceedings for an offence under Article 54 of the Order of 1995 or for a contravention of construction and use (I requirements (within the meaning of Part III of that Order) or regulations under Article 82 of that Order, any record purporting to be made and authenticated in accordance with regulations under that Article shall be evidence of the matters stated in the record and of its due authentication.

### **Use of specimens in proceedings for an offence under Articles 14 to 16 of the Order of 1995**

**18.—**(1) This Article and Article 19 apply in respect of proceedings for an offence under Articles 14 to 16 of the Order of 1995 (driving offences connected with drink or drugs); and expressions used in this Article and Article 19 have the same meaning as in Articles 14 to 21 of that Order.

(2) Evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by<sup>F15</sup> or taken from] the accused shall, in all cases (including cases where the specimen was not provided<sup>F15</sup> or taken] in connection with the alleged offence) be taken into account; and, subject to paragraph (3), it shall be assumed that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than in the specimen.

(3) That assumption shall not be made if the accused proves—

- (a) that he consumed alcohol before he provided the specimen<sup>[F15]</sup> or had it taken from him] and—
    - (i) in relation to an offence under Article 14, after the time of the alleged offence, and
    - (ii) otherwise, after he had ceased to drive, attempt to drive or be in charge of a vehicle on a road or other public place, and
  - (b) that had he not done so the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and, if it is alleged that he was unfit to drive through drink, would not have been such as to impair his ability to drive properly.
- (4) A specimen of blood shall be disregarded<sup>[F15]</sup> unless—
- <sup>[F15]</sup>(a) it was taken from the accused with his consent and either—
    - (i) in a police station by a medical practitioner or a registered health care professional; or
    - (ii) elsewhere by a medical practitioner; or
  - (b) it was taken from the accused by a medical practitioner under Article 18A of the Order of 1995 and the accused subsequently gave his permission for a laboratory test of the specimen.]
- (5) Where, at the time a specimen of blood or urine was provided by the accused, he asked to be provided with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—
- (a) the specimen in which the alcohol or drug was found is one of 2 parts into which the specimen provided by the accused was divided at the time it was provided, and
  - (b) the other part was supplied to the accused.
- <sup>[F15]</sup>(6) Where a specimen of blood was taken from the accused under Article 18A of the Order of 1995, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—
- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
  - (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.]

F15 2005 NI 15

### Documentary evidence as to specimens in such proceedings

19.—(1) Evidence of the proportion of alcohol or a drug in a specimen of breath, blood or urine may, subject to paragraphs (3) and (4) and to Article 18(5)<sup>[F16]</sup> and (5A)], be given by the production of a document or documents purporting to be whichever of the following is appropriate, that is to say—

- (a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a constable (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement, and
  - (b) a certificate signed by an authorised analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.
- (2) Subject to paragraphs (3) and (4); evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner<sup>[F16]</sup> or a registered health care professional] may

be given by the production of a document purporting to certify that fact and to be signed by that medical practitioner<sup>F16</sup> or a registered health care professional].

(3) Subject to paragraph (4)—

- (a) a document purporting to be such a statement or such a certificate (or both such a statement and such a certificate) as is mentioned in paragraph (1)(a) is admissible in evidence on behalf of the prosecution in pursuance of this Article only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than 7 days before the hearing, and
- (b) any other document is so admissible only if a copy of it has been served on the accused not later than 7 days before the hearing.

(4) A document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than 3 days before the hearing or within such further time as the court may in special circumstances allow, has served notice on the complainant or his solicitor requiring the attendance at the hearing of the person by whom the document purports to be signed.

(5) A copy of a certificate required by this Article to be served on the accused or a notice required by this Article to be served on the complainant or his solicitor may be served personally or sent by registered post or recorded delivery service.

(6) In this Article “authorised analyst” means—

- (a) any person possessing the qualifications prescribed under Article 36 of the Food (Northern Ireland) Order 1989 as qualifying persons for appointment as public analysts; and
- (b) any other person authorised by the Department to make analyses for the purposes of this Article;

and a certificate signed by an authorised analyst for the purposes of paragraph (1)(b) shall also be evidence of his qualification as such.

F16 2005 NI 15

### **Provisions as to proceedings for certain offences in connection with the construction and use of vehicles and equipment**

**20.**—(1) If in any proceedings for an offence under Article 54, 56, 57 or 58 of the Order of 1995 (using vehicle in dangerous condition or contravention of construction and use regulations)—

- (a) any question arises as to a weight of any description specified in the plating certificate for a goods vehicle; and
- (b) a weight of that description is marked on the vehicle,

it shall be assumed, unless the contrary is proved, that the weight marked on the vehicle is the weight so specified.

(2) If, in any proceedings for an offence—

- (a) under Part III of the Order of 1995, except Articles 63 and 83, or
- (b) under Article 174 of the Order of 1981;

any question arises as to the date of manufacture of a vehicle, a date purporting to be such a date and marked on the vehicle in pursuance of regulations under Part III of the Order of 1995 shall be evidence that the vehicle was manufactured on the date so marked.

(3) If in any proceedings for the offence of driving a vehicle on a road, or causing or permitting a vehicle to be so driven, in contravention of a prohibition under Article 79(2) of the Order of 1995

any question arises whether a weight of any description has been reduced to a limit imposed by construction and use requirements, or so that it has ceased to be excessive the burden of proof shall lie on the accused.

### **Evidence of declaration for obtaining licence**

**21.** In any proceedings the fact that a licence has been granted to a person shall be evidence that that person for the purpose of obtaining that licence made a declaration that he was not disqualified for holding or obtaining the licence.

### **[<sup>F17</sup>Evidence by certificate as to registration etc. of driving instructors**

**22.—**(1) A certificate signed by the Registrar and stating that, on any date—

- (a) a person was, or was not, registered;
- (b) a person became registered or a person's registration was terminated; or
- (c) a person was, or was not, exempt from the prohibitions imposed by Article 48 of the Order of 2007 (requirement of registration) by virtue of provision made by regulations under Article 50,

shall be evidence of the facts stated in the certificate in pursuance of this Article.

(2) A certificate so stating and purporting to be signed by the Registrar shall be deemed to be so signed unless the contrary is proven.

(3) In this Article “Registrar”, “registered” and “registration” have the same meanings as in Part V of the Order of 2007.]

**F17** Art. 22 substituted (12.9.2011) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), Sch. 7 para. 18; S.R. 2011/286, art. 2, Sch.

### **Speeding offences etc: admissibility of certain evidence**

**23** <sup>F18</sup>.—<sup>F19</sup>(1) Evidence of a fact relevant to proceedings for an offence to which this Article applies may be given by the production of—

- (a) a record produced by a prescribed device, and
- (b) (in the same or another document) a certificate as to the circumstances in which the record was produced signed by a constable or by a person authorised by or on behalf of the Chief Constable;

but subject to the following provisions of this Article.

(2) This Article applies to—

[<sup>F20</sup>(az) an offence under Article 7 of the Road Traffic Regulation (Northern Ireland) Order 1997 consisting in the contravention of a temporary speed restriction under paragraph (3)(b) of that Article;]

- (a) an offence under [<sup>F21</sup> Article 43 of the Road Traffic Regulation (Northern Ireland) Order 1997 (contravening speed limit)];
- (c) an offence under Article [<sup>F21</sup> 50] of the Order of 1995 consisting in the failure to comply with an indication given in a light signal that vehicular traffic may not proceed;
- (d) an offence under paragraph (4) of Article 20 of the Roads (Northern Ireland) Order 1993 consisting in the contravention of a restriction on the speed of vehicles imposed under that Article.

[<sup>F22</sup>(e) an offence under paragraph (4) of Article 20 of the Roads (Northern Ireland) Order 1993 consisting in the contravention of any regulations under that Article relating to the use of the hard shoulder of a motorway.]

[<sup>F23</sup>(f) an offence under section 29(1) of the Vehicle Excise and Registration Act 1994 (using or keeping an unlicensed vehicle on a public road).]

(3) The Department may by order amend paragraph (2) by making additions to or deletions from the list of offences for the time being set out there; and an order under this paragraph may make such transitional provision as appears to it to be necessary or expedient.

(4) A record produced or measurement made by a prescribed device shall not be admissible as evidence of a fact relevant to proceedings for an offence to which this Article applies unless—

- (a) the device is of a type approved by the Department, and
- (b) any conditions subject to which the approval was given are satisfied.

(5) Any approval given by the Department for the purposes of this Article may be given subject to conditions as to the purposes for which, and the manner and other circumstances in which, any device of the type concerned is to be used.

(6) In proceedings for an offence to which this Article applies, evidence—

- (a) of a measurement made by a device, or of the circumstances in which it was made, or
- (b) that a device was of a type approved for the purposes of this Article, or that any conditions subject to which an approval was given were satisfied,

may be given by the production of a document which is signed as mentioned in paragraph (1) and which, as the case may be, gives particulars of the measurement or of the circumstances in which it was made, or states that the device was of such a type or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied.

(7) For the purposes of this Article a document purporting to be a record of the kind mentioned in paragraph (1) or to be a certificate or other document signed as mentioned in that paragraph or in paragraph (6), shall be deemed to be such a record, or to be so signed, unless the contrary is proved.

(8) Nothing in paragraph (1) or (6) makes a document admissible as evidence in proceedings for an offence unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence; and nothing in those paragraphs makes a document admissible as evidence of anything other than the matters shown on a record produced by a prescribed device if that person, not less than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice on the complainant requiring attendance at the hearing or trial of the person who signed the document.

(9) In this Article “prescribed device” means a device of a description prescribed in an order made by the Department.

(10) Orders made under paragraphs (3) and (9) shall be subject to negative resolution.

**F18** mod. by SR 1999/435

**F19** mod. by SR 2001/375

**F20** [Art. 23\(2\)\(az\)](#) inserted (27.6.2007) by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts. 1(3), 5; S.R. 2007/302, [art. 2](#), Sch.

**F21** [1997 NI 2](#)

**F22** SR 1999/435

**F23** SR 2001/375

### Notification of disability

**24.—**(1) If in any proceedings for an offence committed in respect of a motor vehicle it appears to the court that the accused may be suffering from any relevant disability or prospective disability (within the meaning of Part II of the Order of 1981) the court must notify the Department.

(2) A notice sent by a court to the Department in pursuance of this Article must be sent in such manner and to such address and contain such particulars as the Department may determine.

### Saving as to offence provisions etc.

**25.—**(1) Except as provided by paragraph (2), nothing in this Order shall exclude the application to any of the offences to which the Road Traffic Orders relate of any enactment or rule of law—

- (a) authorising the summary trial of young offenders for indictable offences; or
- (b) restricting the power of a court to imprison young offenders; or
- (c) authorising an offender to be dealt with in any manner not authorised by the enactments specially relating to his offence; or
- (d) authorising a jury to find a person guilty of an offence other than that with which he is charged.

(2) Where under or in consequence of any provision of this Order a magistrates' court has power to impose imprisonment for a term exceeding 6 months or to order a person to be imprisoned in respect of the non-payment of a fine or in default of sufficient distress to satisfy the amount of that fine, for a term in addition and succession to a term of imprisonment imposed for the same offence as the fine, nothing in Article 56 of the Magistrates' Courts (Northern Ireland) Order 1981, or in any enactment other than this Order shall operate to limit the aggregate period of any 2 or more consecutive terms so imposed or ordered.

### Alternative verdicts

**26.—**(1) Where—

- (a) a person charged with an offence under a provision of the Order of 1995 specified in the first column of the Table below (where the general nature of the offences is also indicated) is found not guilty of that offence, but
- (b) the allegations in the indictment or complaint amount to or include an allegation of an offence under one or more of the provisions specified in the corresponding entry in the second column,

he may be convicted of that offence or of one or more of those offences.

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<b>(1)</b> <b>Offence charged</b>	<b>(2)</b> <b>Alternative</b>
Article 9 (causing death, or grievous bodily injury, by dangerous driving) inconsiderate, driving)	Article 10 (dangerous driving) [ <sup>F24</sup> Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving)] Article 12 (careless, and inconsiderate, driving)
Article 10 (dangerous driving)	Article 12 (careless, and inconsiderate, driving)
[ <sup>F25</sup> Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving)]	[ <sup>F25</sup> Article 12 (careless and inconsiderate driving).]

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Article 14 (causing death, or grievous bodily injury, by careless driving when under influence of drink or drugs)	[ <sup>F26</sup> Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving)] Article 12 (careless, and inconsiderate, driving) Article 15(1) (driving when unfit to drive through drink or drugs) Article 16(1)(a) (driving with excess alcohol in breath, blood or urine) Article 18(7) (failing to provide specimen) [ <sup>F27</sup> Article 18A(6) (failing to give permission for laboratory test)]
Article 15(1) (driving or attempting to drive when unfit to drive through drink or drugs)	Article 15(2) (being in charge of a vehicle when unfit to drive through drink or drugs)
Article 16(1)(a) (driving or attempting to drive with excess alcohol in breath, blood or urine)	Article 16(1)(b) (being in charge of a vehicle with excess alcohol in breath, blood or urine)
Article 42 (dangerous cycling)	Article 43 (careless, and inconsiderate, cycling)

(2) Where the offence with which a person is charged is an offence under Article 14 of the Order of 1995, paragraph (1) shall not authorise his conviction of any offence of attempting to drive.

(3) Where a person is charged with having committed an offence under Article 15(1) or 16(1) (a) of the Order of 1995 by driving a vehicle, he may be convicted of having committed an offence under the provision in question by attempting to drive.

[<sup>F28</sup>(3A) Where

- (a) a person charged with manslaughter in connection with the driving of a mechanically propelled vehicle by him is found not guilty of that offence, but
- (b) the allegations in the indictment amount to or include an allegation of any of the relevant offences,

he may be convicted of that offence.

(3B) For the purposes of paragraph (3A) the following are the relevant offences—

- (a) an offence under Article 9 of the Order of 1995 (causing death or grievous bodily injury by dangerous driving),
- (b) an offence under Article 10 of that Order (dangerous driving),
- (c) an offence under Article 14 of that Order (causing death or grievous bodily injury by careless driving when under influence of drink or drugs), and
- (d) an offence under section 35 of the Offences against the Person Act 1861 (furious driving).]

(4) Where by virtue of this Article a person is convicted before the Crown Court of an offence triable only summarily, the court shall have the same powers and duties as a court of summary jurisdiction would have had on convicting him of that offence.

(5) This Article has effect without prejudice to section 6(2) of the Criminal Law Act (Northern Ireland) 1967 (alternative verdicts on trial on indictment).

**F24** Words in art. 26(1) Table inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 52(2)(a); S.R. 2008/293, art. 2, Sch.

**F25** Words in art. 26(1) Table inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 52(2)(b); S.R. 2008/293, art. 2, Sch.

- F26** Words in art. 26(1) Table inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **52(2)(c)**; S.R. 2008/293, **art. 2**, Sch.
- F27** Words in art. 26(1) Table inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **63(4)**; S.R. 2008/293, **art. 2**, Sch.
- F28** Art. 26(3A)(3B) inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **64**; S.R. 2008/293, **art. 2**, Sch.

### Information as to date of birth and sex

27.—(1) If on convicting a person of an offence involving obligatory or discretionary disqualification or of such other offence as may be prescribed by regulations made under Article 19C of the Order of 1981 the court does not know his date of birth, the court must order him to give that date to the court in writing.

(2) If a court convicting a person of such an offence in a case where—

- (a) notification has been given to the clerk of petty sessions in pursuance of Article 24(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (written pleas of guilty), and
- (b) the notification did not include a statement of the person's sex,

does not know the person's sex, the court must order the person to give that information to the court in writing.

(3) A person who knowingly fails to comply with an order under paragraph (1) or (2) is guilty of an offence.

(4) Where a person has given his date of birth in accordance with this Article or Article 12, the Department may serve on that person a notice in writing requiring him to provide the Department—

- (a) with such evidence in that person's possession or obtainable by him as the Department may specify for the purpose of verifying that date, and
- (b) if his name differs from his name at the time of his birth, with a statement in writing specifying his name at that time.

(5) A person who knowingly fails to comply with a notice under paragraph (4) is guilty of an offence.

### Interim disqualification

28.—(1) Where a court—

- (a) defers passing sentence on an offender under Article 11 of the Treatment of Offenders (Northern Ireland) Order 1989 in respect of an offence involving obligatory or discretionary disqualification, or
- (b) adjourns after convicting an offender of such an offence but before dealing with him for the offence,

it may order the offender to be disqualified until he has been dealt with in respect of the offence.

(2) An order under paragraph (1) shall cease to have effect at the end of the period of 6 months beginning with the day on which it is made, if it has not ceased to have effect before that time.

(3) Where a court orders a person to be disqualified under paragraph (1) (“the first order”), no court shall make a further order under that paragraph in respect of the same offence or any offence in respect of which an order could have been made under that paragraph at the time the first order was made.

(4) Where a court makes an order under paragraph (1) in respect of any person it must—

- (a) require him to produce to the court any licence held by him and its counterpart, and

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- (b) retain the licence and counterpart until it deals with him.
- (5) If the holder of the licence has not caused it and its counterpart to be delivered, or has not posted them, in accordance with Article 11 and does not produce the licence and counterpart as required under paragraph (4), then he is guilty of an offence.
- (6) Paragraph (5) does not apply to a person who—
- (a) satisfies the court that he has applied for a new licence and has not received it, or
  - (b) surrenders to the court a current receipt for his licence and its counterpart issued under Article 62, and produces the licence and counterpart to the court immediately on their return.
- (7) Where a court makes an order under paragraph (1) in respect of any person, Articles 49(1)<sup>F29</sup>, 52(2)<sup>F30</sup> 92ZA(7) and 92(5) of this Order] shall not apply in relation to the order, but—
- (a) the court must send notice of the order to the Department, and
  - (b) if the court which deals with the offender determines not to order him to be disqualified under Article 35 or 40, it must send notice of the determination to the Department.
- (8) A notice sent by a court to the Department in pursuance of paragraph (7) must be sent in such manner and to such address and contain such particulars as the Department may determine.
- (9) Where on any occasion a court deals with an offender—
- (a) for an offence in respect of which an order was made under paragraph (1), or
  - (b) for 2 or more offences in respect of any of which such an order was made,
- any period of disqualification which is on that occasion imposed under Article 35 or 40 shall be treated as reduced by any period during which he was disqualified by reason only of an order made under paragraph (1) in respect of any of those offences.
- (10) Any reference in this Order or in any other statutory provision (including any provision made after this Order) to the length of a period of disqualification shall, unless the context otherwise requires, be construed as a reference to its length before any reduction under this Article.

**F29** SR 1997/241

**F30** 2003 NI 16

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### **Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

- Order transfer of functions by [S.R. 2016/76 Sch. 5 Pt. 2](#)
- Order transfer of functions by [S.I. 2010/976 Sch. 17 para. 46](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [s. 40A40B](#) inserted by [2009 c. 25 Sch. 16 para. 4](#)
- [art. 23\(2\)\(g\)](#) added by [S.R. 2014/230 art. 2](#)
- [art. 35\(1ZA\)-\(1ZC\)](#) inserted by [2016 c. 11 \(N.I.\) s. 12\(2\)](#)
- [art. 35\(3A\)](#) inserted by [2016 c. 11 \(N.I.\) s. 13\(2\)](#)
- [art. 36\(3A\)](#) inserted by [2009 c. 25 Sch. 21 para. 92\(3\)\(d\)](#)
- [art. 36\(4A\)](#) inserted by [2016 c. 11 \(N.I.\) s. 14\(2\)](#)
- [art. 37\(2A\)](#) inserted by [2009 c. 25 Sch. 21 para. 92\(4\)\(c\)](#)
- [art. 38A\(5A\)](#) inserted by [2009 c. 25 Sch. 21 para. 92\(5\)\(c\)](#)
- [art. 38A\(6A\)](#) inserted by [2009 c. 25 Sch. 21 para. 92\(5\)\(e\)](#)
- [art. 42\(2A\)](#) inserted by [2009 c. 25 Sch. 21 para. 92\(7\)\(c\)](#)
- [art. 42\(5\)](#) added by [S.R. 2016/135 reg. 2\(2\)](#)
- [art. 47\(3A\)](#) inserted by [2009 c. 25 Sch. 21 para. 92\(8\)\(b\)](#)
- [art. 47\(3B\)](#) inserted by [2009 c. 25 Sch. 21 para. 92\(8\)\(c\)](#)
- [art. 52\(2ZA\)](#) inserted by [2009 c. 25 Sch. 21 para. 92\(9\)\(b\)](#)
- [art. 54A](#) inserted by [2016 c. 11 \(N.I.\) s. 15](#)
- [art. 59\(2A\)](#) inserted by [2016 c. 11 \(N.I.\) s. 8\(2\)](#)
- [art. 59\(4\)](#) added by [2016 c. 11 \(N.I.\) s. 8\(3\)](#)
- [art. 59A-59C](#) inserted by [2016 c. 11 \(N.I.\) s. 9\(1\)](#)
- [art. 63A\(7\)](#) added by [2016 c. 11 \(N.I.\) s. 11\(1\)\(d\)](#)
- [art. 64B](#) inserted by [2016 c. 11 \(N.I.\) s. 8\(5\)](#)
- [art. 76\(3A\)\(3B\)](#) inserted by [2016 c. 21 \(N.I.\) Sch. 2 para. 5\(3\)](#)

### **Commencement Orders yet to be applied to the The Road Traffic Offenders (Northern Ireland) Order 1996**

Commencement Orders bringing legislation that affects this Order into force:

- [S.I. 2008/2504 art. 2](#) commences ([2007 c. 27](#))
- [S.I. 2009/1604 art. 2](#) commences ([2005 c. 4](#))
- [S.R. 2008/293 art. 2Sch.](#) commences ([S.I. 2008/1216 \(N.I.\)](#))
- [S.R. 2009/352 art. 2Sch.](#) commences ([2008 c. 4 \(N.I.\)](#))
- [S.R. 2010/226 art. 2Sch.](#) commences ([S.I. 2007/916 \(N.I.\)](#))
- [S.R. 2010/370 art. 2Sch.](#) commences ([S.I. 2007/916 \(N.I.\)](#))
- [S.R. 2011/286 art. 2Sch.](#) commences ([S.I. 2007/916 \(N.I.\)](#))
- [S.R. 2012/16 art. 2](#) commences ([S.I. 1996/1320 \(N.I.\)](#))
- [S.R. 2012/262 art. 2-6](#) commences ([2010 c. 2 \(N.I.\)](#))
- [S.R. 2012/313 art. 2Sch.](#) commences ([2008 c. 4](#))
- [S.R. 2014/238 art. 2Sch.](#) commences ([2008 c. 4 \(N.I.\)](#))
- [S.R. 2015/284 art. 2Sch.](#) commences ([2011 c. 11 \(N.I.\)](#))
- [S.R. 2015/389 art. 2\(3\)Sch. Pt. 3](#) commences ([2008 c. 4 \(N.I.\)](#))
- [S.R. 2016/387 art. 2](#) commences ([2015 c. 9 \(N.I.\)](#))
- [S.R. 2017/34 art. 2](#) commences ([2010 c. 14 \(N.I.\)](#))

- [S.R. 2018/99 art. 2\(a\)-\(c\) commences \(2016 c. 21 \(N.I.\)\)](#)