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STATUTORY INSTRUMENTS

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**2007 No. 916 (N.I. 10)**

**NORTHERN IRELAND**

**The Road Traffic (Northern Ireland) Order 2007**

*Made - - - - 21st March 2007  
Coming into operation in accordance with Article 1(2)  
to (5)*

At the Court at Buckingham Palace, the 21st day of March 2007

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**PART I**

**INTRODUCTORY**

**Title and commencement**

1.—(1) This Order may be cited as the Road Traffic (Northern Ireland) Order 2007.

(2) This Part shall come into operation on the expiration of 7 days from the day on which this Order is made.

(3) The other provisions of this Order shall come into operation on such day or days as the Department may by order appoint.

(4) An order under paragraph (3) may contain—

(a) such transitional provisions and savings;

(b) such supplementary, incidental or consequential provisions (including any provision amending this Order),

as the Department considers necessary or expedient in connection with the coming into operation of any of the provisions of this Order.

(5) The day on which Articles 38 and 39 and Schedule 4 (and the repeals contained in Part IV of Schedule 8) come into operation must be—

- (a) later than the day on which Article 16 and Schedule 2 (and the repeals contained in Part III of Schedule 8) come into operation, but
- (b) earlier than the day on which Article 40 and Schedule 5 (and the repeals contained in Part V of Schedule 8) come into operation.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

- “the Department” means the Department of the Environment;
- “the Offenders Order” means the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#);
- “the Order of 1981” means the [Road Traffic \(Northern Ireland\) Order 1981 \(NI 1\)](#);
- “the Order of 1991” means the [Road Traffic \(Amendment\) \(Northern Ireland\) Order 1991 \(NI 3\)](#);
- “the Order of 1995” means the [Road Traffic \(Northern Ireland\) Order 1995 \(NI 18\)](#);
- “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

**PART II**

**OFFENCES AND ENFORCEMENT**

*Increase in penalty points*

**Offences concerning the wearing of seat belts**

3. In Part I of Schedule 1 to the Offenders Order (prosecution and punishment of offences)—
- (a) for columns (5) to (7) of the entry relating to offences under Article 23 of the Order of 1995 (driving or riding in a motor vehicle in contravention of regulations requiring the wearing of seat belts) substitute—

| “Discretionary. | Obligatory. |  |
|-----------------|-------------|--|
|                 |             | (a) 3 if committed by driving a motor vehicle in contravention of regulations requiring wearing of seat belts. |
|                 |             | (b) 2 if committed by riding in a motor vehicle in contravention of regulations                                |

requiring wearing  
of seat belts.”;

(b) for columns (5) to (7) of the entry relating to offences under Article 24(2) of the Order of 1995 (driving motor vehicle with child in front not wearing seat belt) substitute–

“Discretionary.                      Obligatory.                      3”;

(c) for columns (5) to (7) of the entry relating to offences under Article 24(5) of the Order of 1995 (driving motor vehicle with child in rear not wearing seat belt) substitute–

“Discretionary.                      Obligatory.                      3”;

#### **Failure to give information for purposes of identification to police**

4. In Part I of Schedule 1 to the Offenders Order (prosecution and punishment of offences) in column (7) of the entry relating to Article 177 of the Order of 1981 (failure of driver or owner to give information for purposes of identification to police) for “3” substitute “6”.

#### **Contravention of temporary speed restriction**

5.—(1) In Part I of Schedule 1 to the Offenders Order (prosecution and punishment of offences) for columns (5) to (7) of the entry relating to Article 7 of the [Road Traffic Regulation \(Northern Ireland\) Order 1997 \(NI 2\)](#) (temporary traffic regulation) substitute–

|  |  |                                     |
|--|--|-------------------------------------|
| “Discretionary if committed by<br>contravening temporary speed<br>restriction under Article 7(3)(b). | Obligatory if committed as<br>described in column (5). | 3-6 if as described in column (5)”. |
|--|--|-------------------------------------|

(2) In Article 23 of the Offenders Order (speeding offences etc: admissibility of certain evidence) before paragraph (2)(a) insert–

“(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;”.

#### **Breach of requirements as to control of vehicle, mobile telephones etc.**

6.—(1) After Article 56 of the Order of 1995 insert–

##### **“Breach of requirements as to control of vehicle, mobile telephones etc.**

**56A.** A person who contravenes a construction and use requirement–

- (a) as to not driving a motor vehicle in a position which does not give proper control or a full view of the road and traffic ahead, or not causing or permitting the driving of a motor vehicle by another person in such a position, or
- (b) as to not driving or supervising the driving of a motor vehicle while using a hand-held mobile telephone or other hand-held interactive communication device, or not causing or permitting the driving of a motor vehicle by another person using such a telephone or other device,

is guilty of an offence.”.

(2) In Article 58(a) of that Order (breach of other construction and use requirements) after “56(a)” insert “, 56A”.

(3) In Part I of Schedule 1 to the Offenders Order (prosecution and punishment of offences) after the entry relating to offences under Article 56 of the Order of 1995 insert–

|              |   |            |   |                            |     |
|--------------|---|------------|---|----------------------------|-----|
| “Article 56A | Breach of requirements as to control of vehicle, mobile telephones etc. | Summarily. | <p>(a) Level 4 on the standard scale if committed in respect of a goods vehicle or a vehicle adapted to carry more than 8 passengers.</p> <p>(b) Level 3 on the standard scale in any other case.</p> | Discretionary. Obligatory. | 3”. |
|--------------|---|------------|---|----------------------------|-----|

*Increase in other penalties*

**Increase in penalty for careless, and inconsiderate, driving**

7. In Part I of Schedule 1 to the Offenders Order (prosecution and punishment of offences) in the entry relating to offences under Article 12 of the Order of 1995 (careless, and inconsiderate, driving) in column (4) for “level 4” substitute “level 5”.

**Increase in penalty where child not wearing seat belt in rear**

8. In Part I of Schedule 1 to the Offenders Order (prosecution and punishment of offences) in the entry relating to offences under Article 24(5) of the Order of 1995 (driving motor vehicle with child in rear not wearing seat belt) in column (4) for “level 1” substitute “level 2”.

### **Disqualification for using vehicle in dangerous condition**

9.—(1) In Article 35 of the Offenders Order (disqualification for certain offences) after paragraph (4) insert—

“(4A) Where a person convicted of an offence under Article 54 of the Order of 1995 (using vehicle in dangerous condition etc.) has within the 3 years immediately preceding the commission of the offence been convicted of any such offence, paragraph (1) shall apply in relation to him as if the reference to 12 months were a reference to 6 months.”.

(2) In Part I of Schedule 1 to the Offenders Order (prosecution and punishment of offences) in the entry relating to Article 54 of the Order of 1995 (using vehicle in dangerous condition etc.) in column (5) for “Discretionary.” substitute—

- 
- “(a) Obligatory if committed within 3 years of a previous conviction of the offender under Article 54.  
(b) Discretionary in any other case.”
- 

### *Attendance on courses*

### **Reduced penalty points for attendance on course**

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

(2) In Article 31 (penalty points to be taken into account on conviction) after paragraph (2) insert—

“(3) Paragraph (1)(b) has effect subject to Article 32A.”.

(3) After Article 32 insert—

#### **“Reduced penalty points for attendance on course**

32A.—(1) This Article applies where—

- (a) a person is convicted of a specified offence by or before a court,
- (b) penalty points are to be attributed to the offence and the court does not order him to be disqualified, and
- (c) at least 7 but no more than 11 penalty points are to be taken into account on the occasion of the conviction.

(2) In this Article “specified offence” means—

- (a) an offence under Article 20(4) of the Roads (Northern Ireland) Order 1993 (use of special road contrary to regulations),
- (b) an offence under Article 12 of the Order of 1995 (careless, and inconsiderate, driving),
- (c) an offence under Article 50 of the Order of 1995 (contravention of traffic signs),
- (d) an offence under Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (contravening speed limit), or
- (e) an offence under Article 7 of the Road Traffic Regulation (Northern Ireland) Order 1997 committed by contravening a temporary speed restriction under paragraph (3) (b) of that Article.

(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.

(4) Where this Article applies, the court may make an order that 3 of the penalty points attributed to the offence (or all of them if 3 or fewer are so attributed) shall not be taken into

account under Article 31(1)(b) on the occasion of any conviction of an offence after the end of the period of 12 months beginning with the date of the order if, by the relevant date, the offender completes an approved course specified in the order.

(5) In paragraph (4)–

“an approved course” means a course approved by the Department for the purposes of this Article in relation to the description of offence of which the offender is convicted; and “the relevant date” means such date, no later than 10 months after the day on which the order is made, as is specified in the order.

(6) A court shall not make an order under this Article in the case of an offender convicted of an offence if–

(a) the offender has, during the period of 3 years ending with the date on which the offence was committed, committed a specified offence and successfully completed an approved course pursuant to an order made under this Article or Article 36 on conviction of that offence, or

(b) the offence was committed during his probationary period.

(7) A court shall not make an order under this Article in the case of an offender unless–

(a) it is satisfied that a place on the course specified in the order will be available for the offender,

(b) the offender appears to the court to be of or over the age of 17,

(c) the court has informed the offender (orally or in writing and in ordinary language) of the effect of the order and of the amount of the fees which he is required to pay for the course and when he must pay them, and

(d) the offender agrees that the order should be made.

### **Certificates of completion of courses**

**32B.**—(1) An offender shall only be regarded for the purposes of Article 32A as having completed a course satisfactorily if a certificate that he has done so is received by the proper officer of the supervising court.

(2) A course provider shall give a certificate under paragraph (1) to the offender not later than 14 days after the date specified in the order as the latest date for the completion of the course 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.

(3) The certificate under paragraph (1) is to be given by the course provider and shall be in such form, and contain such particulars, as may be prescribed by, or determined in accordance with, regulations made by the Department.

(4) Where a course provider decides not to give the certificate under paragraph (1) to the offender, he 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 date specified in the order as the latest date for completion of the course.

(5) An offender to whom a notice is given under paragraph (4) may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court or the relevant local court) to either the supervising court or the relevant

local court, for a declaration that the course provider's decision not to give a certificate under paragraph (1) was contrary to paragraph (2).

(6) If the court grants an application under paragraph (5), Article 32A shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(7) If 14 days after the date specified in the order as the latest date for completion of the course the course provider has given neither a certificate under paragraph (1) nor a notice under paragraph (4), the offender may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the course provider is in default.

(8) If the court grants an application under paragraph (7), Article 32A shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(9) A notice under paragraph (4) shall specify the ground on which it is given; and the Department may by regulations make provision as to the form of notices under that paragraph and as to the circumstances in which they are to be treated as given.

(10) Where the proper officer of a court receives a certificate under paragraph (1), or a court grants an application under paragraph (5) or (7), the proper officer or court (as the case may be) must send notice of that fact to the Department; and the notice must be sent in such manner and to such address, and must contain such particulars as the Department may determine.

### **Approval of courses**

**32C.**—(1) If an application is made to the Department for the approval of a course for the purposes of Article 32A, the Department must decide whether to grant or refuse the application.

(2) In reaching that decision, the Department must have regard to—

- (a) the nature of the course, and
- (b) whether the course provider is an appropriate person to provide the course and administer its provision efficiently and effectively,

and may take into account any recommendations made by any persons appointed to consider the application.

(3) A course may be approved subject to conditions specified by the Department.

(4) An approval of a course is for the period specified by the Department (which must not exceed 7 years), subject to withdrawal of approval.

(5) Regulations made by the Department may make provision in relation to the approval of courses and may, in particular, include provision—

- (a) in relation to the making of applications for approval,
- (b) for the payment in respect of applications for approval, or in connection with approvals, of fees of a prescribed amount,
- (c) specifying the maximum fees that a person may be required to pay for a course and by when they are to be paid,
- (d) for the monitoring of courses and course providers,
- (e) in relation to withdrawing approval,
- (f) for an appeal to lie to a court of summary jurisdiction against a refusal of an application for approval, the imposition of conditions on the grant of such an application or the withdrawal of approval, and,
- (g) authorising the Department to make available (with or without charge) information about courses and course providers.

**Courses in Great Britain**

**32D.**—(1) The Department may enter into arrangements with persons in Great Britain who provide courses which are approved courses within the meaning of section 30A(5) of the Road Traffic Offenders Act 1988 for the purpose of treating those courses as approved courses within the meaning of Articles 32A to 32E and in this Article such courses in respect of which such arrangements have been entered into shall be known as “recognised courses”.

(2) Such arrangements may include provision for any matters for which provision is made in Articles 32A to 32E in relation to approved courses.

(3) A court—

- (a) may treat recognised courses as approved courses for the purposes of Article 32A,
- (b) may treat any certificates received from course providers of recognised courses as certificates received from course providers of approved courses for the purposes of Article 32B,
- (c) may treat a notice of such course provider not to give a certificate as a notice within the meaning of Article 32B(4) for the purposes of Article 32B(5), (6) and (10), provided that, the offender may only appeal to the supervising court,
- (d) may treat a failure to give such a notice and a failure to give such a certificate in the same way as it would treat such a failure under Article 32B(7) for the purposes of Article 32B(7), (8) and (10), provided that, the offender may only appeal to the supervising court.

(4) Where a court has made an order in respect of a person under Article 32A, that person may apply to the court to vary the order by substituting a recognised course for the course specified in the order, and if the court grants that application, it shall vary the order accordingly.

(5) The power to prescribe periods by rules of court under Article 32B(5) and (7) shall include power to prescribe periods for the purposes of paragraph (2)(c) and (d) of this Article.

(6) The Department may by regulations make such further provision in respect of recognised courses as it considers necessary or expedient.

**Provisions supplementary to Articles 32A to 32D**

**32E.**—(1) The Department may issue guidance to course providers, or to any category of course provider, as to the conduct of courses approved for the purposes of Article 32; and—

- (a) course providers shall have regard to any guidance given to them under this paragraph, and
- (b) in determining for the purposes of Article 32B whether any instructions or requirements of a course provider were reasonable, a court shall have regard to any guidance given to him under this paragraph.

(2) The Department may by regulations make provision—

- (a) amending Article 32A(1)(c) by substituting for the lower number of penalty points for the time being specified there a different number of penalty points, or
- (b) amending Article 32A(6)(a) by substituting for the period for the time being specified there a different period.

(3) In Articles 32A to 32C and this Article—

“course provider”, in relation to a course, means the person by whom it is, or is to be, provided;

“probationary period” has the meaning given in Article 2 of the Road Traffic (New Drivers) (Northern Ireland) Order 1998;



“proper officer” means—

- (a) in relation to a magistrates' court, the clerk of petty sessions for the petty sessions district for which the court acts, and
- (b) otherwise, the chief clerk;

“relevant local court”, in relation to an order made under Article 32A in the case of an offender, means a magistrates' court acting for the petty sessions district in which the offender resides;

“rules of court” means—

- (a) in relation to an application to a magistrates' court, magistrates' court rules, and
- (b) in relation to an application to the Crown Court, Crown Court rules;

“supervising court”, in relation to an order under Article 32A means—

- (a) if the Crown Court made the order, the Crown Court, and
- (b) otherwise a magistrates' court acting in the same petty sessions district as the court which made the order.

(4) Orders or regulations made by the Department under Article 32A to 32D or this Article may include such incidental or supplementary provision as appears to the Department to be necessary or expedient.

(5) Orders made under Article 32A(3) and regulations made under this Article shall be subject to affirmative resolution.

(6) Regulations made under Article 32B, 32C or 32D shall be subject to negative resolution.”.

### **Reduced disqualification period for attendance on course**

**11.—**(1) For Articles 36 to 39 of the Offenders Order (reduced disqualification period for attendance on course) substitute—

#### **“Reduced disqualification period for attendance on course**

**36.—**(1) This Article applies where—

- (a) a person is convicted of a relevant drink offence or a specified offence by or before a court, and
- (b) the court makes an order under Article 35 disqualifying him for a period of not less than 12 months.

(2) In this Article “relevant drink offence” means—

- (a) an offence under sub-paragraph (a) of paragraph (1) of Article 14 of the Order of 1995 (causing death by careless driving when unfit to drive through drink) committed when unfit to drive through drink,
- (b) an offence under sub-paragraph (b) of that paragraph (causing death by careless driving with excess alcohol),
- (c) an offence under sub-paragraph (c) of that paragraph (failing to provide a specimen) where the specimen is required in connection with drink or consumption of alcohol,
- (d) an offence under Article 15 of that Order (driving or being in charge when under influence of drink) committed by reason of unfitness through drink,
- (e) an offence under Article 16(1) of that Order (driving or being in charge with excess alcohol),

- (f) an offence under Article 18(7) of that Order (failing to provide a specimen) committed in the course of an investigation into an offence within any of the preceding sub-paragraphs, and
  - (g) an offence under Article 18A(6) of that Order (failing to allow a specimen to be subjected to a laboratory test) in the course of an investigation into an offence within any of the preceding sub-paragraphs.
- (3) In this Article “specified offence” means–
- (a) an offence under Article 20(4) of the Roads (Northern Ireland) Order 1993 (use of special road contrary to regulations),
  - (b) an offence under Article 12 of the Order of 1995 (careless, and inconsiderate, driving),
  - (c) an offence under Article 50 of the Order of 1995 (contravention of traffic signs),
  - (d) an offence under Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (contravening speed limit), or
  - (e) an offence under Article 7 of the Road Traffic Regulation (Northern Ireland) Order 1997 committed by contravening a temporary speed restriction under paragraph (3) (b) of that Article.
- (4) The Department may by order amend paragraph (3) by making additions to or deletions from the list of offences for the time being set out there.
- (5) Where this Article applies, the court may make an order that the period of disqualification imposed under Article 35 (“the unreduced period”) shall be reduced if, by the relevant date, the offender satisfactorily completes an approved course specified in the order.
- (6) In paragraph (5)–
- “an approved course” means a course approved by the Department for the purposes of this Article in relation to the description of offence of which the offender is convicted, and
  - “the relevant date” means such date, at least 2 months before the last day of the period of disqualification as reduced by the order, as is specified in the order.
- (7) The reduction made in a period of disqualification by an order under this Article is a period specified in the order of–
- (a) not less than 3 months, and
  - (b) not more than one quarter of the unreduced period,
- (and accordingly, where the unreduced period is 12 months, the reduced period is 9 months).
- (8) A court shall not make an order under this Article in the case of an offender convicted of a specified offence if–
- (a) the offender has, during the period of 3 years ending with the date on which the offence was committed, committed a specified offence and successfully completed an approved course pursuant to an order made under this Article or Article 32A on conviction of that offence, or
  - (b) the specified offence was committed during his probationary period.
- (9) A court shall not make an order under this Article in the case of an offender unless–
- (a) it is satisfied that a place on the course specified in the order will be available for the offender,
  - (b) the offender appears to the court to be of or over the age of 17,

- (c) the court has informed the offender (orally or in writing and in ordinary language) of the effect of the order and of the amount of the fees which he is required to pay for the course and when he must pay them, and
- (d) the offender agrees that the order should be made.

### **Certificates of completion of courses**

37.—(1) An offender shall only be regarded for the purposes of Article 36 as having completed a course satisfactorily if a certificate that he has done so is received by the proper officer of the supervising court before the end of the unreduced period.

(2) If the certificate under paragraph (1) is so received before the end of the unreduced period but after the end of the period which would (apart from this paragraph) be the reduced period, the reduced period is to be taken to end with the day on which the certificate is so received.

(3) The certificate under paragraph (1) is to be given by the course provider and shall be in such form, and contain such particulars, as may be prescribed by, or determined in accordance with, regulations made by the Department.

(4) A course provider shall give a certificate under paragraph (1) to the offender not later than 14 days after the date specified in the order as the latest date for the completion of the course 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.

(5) Where a course provider decides not to give a certificate under paragraph (1) to the offender, he 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 date specified in the order as the latest date for completion of the course.

(6) An offender to whom a notice is given under paragraph (5) may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the course provider's decision not to give a certificate under paragraph (1) was contrary to paragraph (4).

(7) If the court grants an application under paragraph (6), Article 36 shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(8) If 14 days after the date specified in the order as the latest date for completion of the course the course provider has given neither a certificate under paragraph (1) nor a notice under paragraph (5), the offender may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the course provider is in default.

(9) If the court grants an application under paragraph (8), Article 36 shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(10) A notice under paragraph (5) shall specify the ground on which it is given; and the Department may by regulations make provision as to the form of notices under that paragraph and as to the circumstances in which they are to be treated as given.

(11) Where the proper officer of a court receives a certificate under paragraph (1), or a court grants an application under paragraph (6) or (8), the proper officer or court (as the case may

be) must send notice of that fact to the Department; and the notice must be sent in such manner and to such address, and must contain such particulars, as the Department may determine.

### **Approval of courses**

**37A.**—(1) If an application is made to the Department for the approval of a course for the purposes of Article 36, the Department must decide whether to grant or refuse the application.

(2) In reaching that decision, the Department must have regard to—

- (a) the nature of the course, and
- (b) whether the course provider is an appropriate person to provide the course and administer its provision efficiently and effectively,

and may take into account any recommendations made by any persons appointed to consider the application.

(3) A course may be approved subject to conditions specified by the Department.

(4) An approval of a course is for the period specified by the Department (which must not exceed 7 years), subject to withdrawal of approval.

(5) Regulations made by the Department may make provision in relation to the approval of courses and may, in particular, include provision—

- (a) in relation to the making of applications for approval,
- (b) for the payment in respect of applications for approval, or in connection with approvals, of fees of a prescribed amount,
- (c) specifying the maximum fees that a person may be required to pay for a course and by when they are to be paid,
- (d) for the monitoring of courses and course providers,
- (e) in relation to withdrawing approval,
- (f) for an appeal to lie to a court of summary jurisdiction against a refusal of an application for approval, the imposition of conditions on the grant of such an application or the withdrawal of approval, and,
- (g) authorising the Department to make available (with or without charge) information about courses and course providers.

### **Courses in Great Britain**

**37B.**—(1) The Department may enter into arrangements with persons in Great Britain who provide courses which are approved courses within the meaning of section 34A(6) of the Road Traffic Offenders Act 1988 for the purpose of treating those courses as approved courses within the meaning of Articles 36 to 38 and in this Article such courses in respect of which such arrangements have been entered into shall be known as “recognised courses”.

(2) Such arrangements may include provision for any matters for which provision is made in Articles 36 to 38 in relation to approved courses.

(3) A court—

- (a) may treat recognised courses as approved courses for the purposes of Article 36,
- (b) may treat any certificates received from course providers of recognised courses as certificates received from course providers of approved courses for the purposes of Article 37,

- (c) may treat a notice of such course provider not to give a certificate as a notice within the meaning of Article 37(5) for the purposes of Article 37(6), (7) and (11), provided that, the offender may only appeal to the supervising court,
  - (d) may treat a failure to give such a notice and a failure to give such a certificate in the same way as it would treat such a failure under Article 37(8) for the purposes of Article 37(8), (9) and (11), provided that, the offender may only appeal to the supervising court.
- (4) Where a court has made an order in respect of a person under Article 36, that person may apply to the court to vary the order by substituting a recognised course for the course specified in the order, and if the court grants that application, it shall vary the order accordingly.
- (5) The power to prescribe periods by rules of court under Article 37(6) and (8) shall include power to prescribe periods for the purposes of paragraph (2)(c) and (d) of this Article.
- (6) The Department may by regulations make such further provision in respect of recognised courses as it considers necessary or expedient.

### **Provisions supplementary to Articles 36 to 37B**

**38.**—(1) The Department may issue guidance to course providers, or to any category of course provider, as to the conduct of courses approved for the purposes of Article 36; and—

- (a) course providers shall have regard to any guidance given to them under this paragraph, and
  - (b) in determining for the purposes of Article 37 whether any instructions or requirements of a course provider were reasonable, a court shall have regard to any guidance given to him under this paragraph.
- (2) The Department may by regulations make provision—
- (a) amending Article 36(1)(b) by substituting for the period for the time being specified there a different period,
  - (b) amending Article 36(7) by substituting for the period for the time being specified there a different period, or by substituting for the fraction of the unreduced period for the time being specified there a different fraction of that period, (or by doing both), or
  - (c) amending Article 36(8)(a) by substituting for the period for the time being specified there a different period.

(3) In Articles 36 to 37B and this Article—

“course provider”, in relation to a course, means the person by whom it is, or is to be, provided;

“probationary period” has the meaning given in Article 2 of the Road Traffic (New Drivers) (Northern Ireland) Order 1998;

“proper officer” means—

- (a) in relation to a magistrates' court, the clerk of petty sessions for the petty sessions district for which the court acts, and
- (b) otherwise, the chief clerk;

“relevant local court”, in relation to an order made under Article 36 in the case of an offender, means a magistrates' court acting for the petty sessions district in which the offender resides;

“rules of court” means—

- (a) in relation to an application to a magistrates' court, magistrates' court rules, and

- (b) in relation to an application to the Crown Court, Crown Court rules; “supervising court”, in relation to an order under Article 36 means—
  - (a) if the Crown Court made the order, the Crown Court, and
  - (b) otherwise a magistrates' court acting in the same petty sessions district as the court which made the order.
- (4) Orders or regulations made by the Department under Article 36 to 37B or this Article may include such incidental or supplementary provision as appears to the Department to be necessary or expedient.
- (5) Orders made under Article 36(4) and regulations made under this Article shall be subject to affirmative resolution.
- (6) Regulations made under Article 37, 37A or 37B shall be subject to negative resolution.”.
- (2) Paragraph (1) shall not apply in respect of proceedings commenced before it comes into operation.

*Deposits and prohibition on driving*

**Financial penalty deposits**

- 12.—(1) In the Offenders Order, after Part IV insert—

**“PART IVA  
FINANCIAL PENALTY DEPOSITS**

**Interpretation of this Part**

**91A.** In this Part—

- “the appropriate amount” has the meaning given by Article 91C(2);
- “the appropriate refund” has the meaning given by Article 91D(10);
- “financial penalty deposit requirement” has the meaning given by Article 91C(1);
- “fixed penalty notice” has the meaning given by Article 58;
- “fixed penalty offence” has the meaning given by Article 57;
- “the prosecution period” has the meaning given by Article 91D(6);
- “the relevant period” has the meaning given by Article 91C(3);
- “the suspended enforcement period” is to be construed in accordance with Article 58(3);
- and
- “vehicle examiner” means an examiner appointed under Article 74 of the Order of 1995.

**Power to impose financial penalty deposit requirement**

- 91B.**—(1) A constable or vehicle examiner may impose a financial penalty deposit requirement on a person on any occasion if the conditions in this Article are satisfied.
- (2) The constable or vehicle examiner must have reason to believe—
- (a) that the person is committing or has on that occasion committed an offence relating to a motor vehicle; and

- (b) that the person, the offence and the circumstances in which the offence is committed are of a description specified in an order made by the Department.
- (3) The person must be—
  - (a) given written notification that it appears likely that proceedings will be brought against him in respect of the offence; or
  - (b) (if the offence is a fixed penalty offence) either given such notification or given a fixed penalty notice in respect of the offence.
- (4) The person must fail to provide a satisfactory address; and for this purpose “a satisfactory address” is an address in the United Kingdom at which the constable or vehicle examiner considers it likely that it would be possible to find the person whenever necessary to do so in connection with the proceedings or fixed penalty notice.
- (5) The person who is to impose the financial penalty deposit requirement—
  - (a) if a constable, must be in uniform; and
  - (b) if a vehicle examiner, must produce his authority.

#### **Financial penalty deposit requirement**

**91C.**—(1) For the purposes of this Part a financial penalty deposit requirement is a requirement to make a payment of the appropriate amount to the Department—

- (a) in a manner specified in an order made by it; and
- (b) either immediately or within the relevant period.

(2) In this Part “the appropriate amount”, in relation to an offence and a person, is an amount specified in relation to the offence in an order made by the Department; and different amounts may be so specified by reference to whether the person is given notification that it appears likely that proceedings will be brought against him or given a fixed penalty notice.

(3) In this Part “the relevant period” means—

- (a) if the person was given a fixed penalty notice and proceedings are not brought in respect of the offence by virtue of this Order before the end of the suspended enforcement period, the suspended enforcement period; and
- (b) otherwise, the period ending with the person being charged with the offence.

#### **Making of payment in compliance with requirement**

**91D.**—(1) This Article applies where a person on whom a financial penalty deposit requirement is imposed in respect of an offence makes a payment of the appropriate amount in accordance with Article 91C(1) (and any order made under it).

(2) On payment by the person of the appropriate amount the person by whom the payment is received must issue him with a written receipt for the payment specifying the effect of the following provisions of this Article.

(3) In a case where—

- (a) a fixed penalty notice relating to the offence has been given to the person;
- (b) the person does not give notice requesting a hearing in respect of the offence before the end of the relevant period in the manner specified in the fixed penalty notice; and
- (c) proceedings are not brought in respect of the offence by virtue of this Order;

paragraph (4) applies.

(4) Where this paragraph applies, the Department must—

- (a) apply so much of the payment as does not exceed the amount of the fixed penalty in or towards payment of the fixed penalty; and
  - (b) take the appropriate steps to make any appropriate refund to the person.
- (5) In any other case—
- (a) if the person is informed that he is not to be prosecuted for the offence, is acquitted of the offence or is convicted but not fined in respect of it, or the prosecution period comes to an end without a prosecution having been commenced against him in respect of it, paragraph (7) applies; and
  - (b) if a fine is imposed on the person in respect of the offence (otherwise than as a result of a conviction obtained on a prosecution commenced after the end of the prosecution period), paragraph (8) applies.
- (6) In this Part, “the prosecution period” means the period of 12 months beginning with the imposition of the financial penalty deposit requirement or, if shorter, any period after which no prosecution may be commenced in respect of the offence.
- (7) Where this paragraph applies, the Department must take the appropriate steps to make the appropriate refund to the person.
- (8) Where this paragraph applies, the Department must—
- (a) apply so much of the payment as does not exceed the amount of the fine in or towards payment of the fine; and
  - (b) take the appropriate steps to make any appropriate refund to the person.
- (9) Where the Department is required by this Article to take the appropriate steps to make an appropriate refund, it must take such steps to trace the person and to make the refund to him, by such means, as are specified in an order made by the Department.
- (10) In this Part “the appropriate refund”, in any case, is a refund of—
- (a) where paragraph (4) applies, so much of the payment as exceeds the amount of the fixed penalty;
  - (b) where paragraph (7) applies, the amount of the payment; and
  - (c) where paragraph (8) applies, so much of the amount of the payment as exceeds the amount of the fine;
- together with interest calculated in accordance with provision made by order made by the Department of Finance and Personnel.

### **Prohibition on driving on failure to make payment**

**91E.—(1)** This Article applies where a person on whom a financial penalty deposit requirement is imposed does not make an immediate payment of the appropriate amount in accordance with Article 91C(1) (and any order made under it).

(2) The constable or vehicle examiner by whom the requirement was imposed may prohibit the driving on a road of any vehicle of which the person was in charge at the time of the offence by giving to the person notice in writing of the prohibition.

- (3) The prohibition—
  - (a) shall come into force as soon as the notice is given; and
  - (b) shall continue in force until the happening of whichever of the events in paragraph (4) occurs first.
- (4) Those events are—



- (a) the person making a payment of the appropriate amount in accordance with Article 91C(1) (and any order made under it) at any time during the relevant period;
- (b) (where a fixed penalty notice was given to the person in respect of the offence) payment of the fixed penalty;
- (c) the person being convicted or acquitted of the offence;
- (d) the person being informed that he is not to be prosecuted for the offence; and
- (e) the coming to an end of the prosecution period.

(5) A constable or vehicle examiner may by direction in writing require the person to remove the vehicle to which the prohibition relates (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition does not apply to the removal of the vehicle (or trailer) in accordance with the direction.

(6) A person who—

- (a) drives a vehicle in contravention of a prohibition under this Article;
- (b) causes or permits a vehicle to be driven in contravention of such a prohibition; or
- (c) fails to comply within a reasonable time with a direction under paragraph (5),

is guilty of an offence.

(7) The Department may by order provide for exceptions from paragraph (6).

(8) Where a constable in uniform has reasonable grounds for suspecting that an offence under paragraph (6) has been committed or attempted, or is being committed or attempted, he may arrest the relevant person without warrant.

(9) In this Article “the relevant person” means any person whom the constable has reasonable grounds to suspect of having committed or having attempted to commit the offence or of being in the course of committing or attempting to commit it.

### **Orders about financial penalty deposits**

**91F.**—(1) Before making an order under any provision of this Part, the Department or the Department of Finance and Personnel (as the case may be) shall consult with such representative organisations as it thinks fit.

(2) An order under any provision of this Part shall be subject to negative resolution.”.

(2) In Part I of Schedule 1 to the Offenders Order (prosecution and punishment of offences) after the entry relating to offences under Article 72 of that Order insert—

|                 |  |            |                                  |
|-----------------|--|------------|----------------------------------|
| “Article 91E(6) | Driving, etc. vehicle in contravention of prohibition for failure to pay financial penalty deposit, etc. | Summarily. | Level 5 on the standard scale.”. |
|-----------------|--|------------|----------------------------------|

### **Prohibition on driving: immobilisation, removal and disposal of vehicles**

**13.** Schedule 1 makes provision about—

- (a) the immobilisation of vehicles the driving of which has been prohibited under—
  - (i) Article 84 of the Order of 1981 (foreign vehicles);
  - (ii) Article 77 or 79 of the Order of 1995 (unfit or overloaded vehicles); or

- (iii) Article 91E of the Offenders Order (failure to make payment of financial penalty deposit); and
- (b) the removal and disposal of such vehicles.

*Testing for drink and drugs*

**Testing for drink and drugs**

14. For Article 17 of the Order of 1995 (breath tests) substitute—

**“Power to administer preliminary tests**

17.—(1) If any of paragraphs (2) to (5) applies a constable may require a person to co-operate with any one or more preliminary tests administered to the person by that constable or another constable.

- (2) This paragraph applies if a constable reasonably suspects that the person—
  - (a) is driving, is attempting to drive or is in charge of a motor vehicle on a road or other public place, and
  - (b) has alcohol or a drug in his body or is under the influence of a drug.
- (3) This paragraph applies if a constable reasonably suspects that the person—
  - (a) has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place while having alcohol or a drug in his body or while unfit to drive because of a drug, and
  - (b) still has alcohol or a drug in his body or is still under the influence of a drug.
- (4) This paragraph applies if a constable reasonably suspects that the person—
  - (a) is or has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place, and
  - (b) has committed a traffic offence while the vehicle was in motion.
- (5) This paragraph applies if—
  - (a) an accident occurs owing to the presence of a motor vehicle on a road or other public place, and
  - (b) a constable reasonably believes that the person was driving, attempting to drive or in charge of the vehicle at the time of the accident.
- (6) A person commits an offence if without reasonable excuse he fails to co-operate with a preliminary test in pursuance of a requirement imposed under this Article.
- (7) A constable may administer a preliminary test by virtue of any of paragraphs (2) to (4) only if he is in uniform.
- (8) In this Article—
  - (a) a reference to a preliminary test is to any of the tests described in Articles 17A to 17C, and
  - (b) “traffic offence” means an offence under—
    - (i) any provision of the Order of 1981 other than an offence under Article 132, 133, 136 or 137 of that Order, or
    - (ii) any provision of this Order, or
    - (iii) any provision of the Offenders Order except Part IV, or

- (iv) any provision of the [Road Traffic Regulation \(Northern Ireland\) Order 1997 \(NI 2\)](#).

### **Preliminary breath test**

**17A.—**(1) A preliminary breath test is a procedure whereby the person to whom the test is administered provides a specimen of breath to be used for the purpose of obtaining, by means of a device of a type approved by the Department, an indication whether the proportion of alcohol in the person's breath or blood is likely to exceed the prescribed limit.

(2) A preliminary breath test administered in reliance on Article 17(2) to (4) may be administered only at or near the place where the requirement to co-operate with the test is imposed.

(3) A preliminary breath test administered in reliance on Article 17(5) may be administered—

- (a) at or near the place where the requirement to co-operate with the test is imposed, or
- (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.

(4) For the purposes of paragraph (1) a device shall be treated as of a type approved by the Department where a statement that the Department has approved a device of that type is included in the Belfast Gazette.

### **Preliminary impairment test**

**17B.—**(1) A preliminary impairment test is a procedure whereby the constable administering the test—

- (a) observes the person to whom the test is administered in his performance of tasks specified by the constable, and
- (b) makes such other observations of the person's physical state as the constable thinks expedient.

(2) The Secretary of State shall issue (and may from time to time revise) a code of practice about—

- (a) the kind of task that may be specified for the purpose of a preliminary impairment test,
- (b) the kind of observation of physical state that may be made in the course of a preliminary impairment test,
- (c) the manner in which a preliminary impairment test should be administered, and
- (d) the inferences that may be drawn from observations made in the course of a preliminary impairment test.

(3) In issuing or revising the code of practice the Secretary of State shall aim to ensure that a preliminary impairment test is designed to indicate—

- (a) whether a person is unfit to drive, and
- (b) if he is, whether or not his unfitness is likely to be due to drink or drugs.

(4) A preliminary impairment test may be administered—

- (a) at or near the place where the requirement to co-operate with the test is imposed, or

- (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.
- (5) A constable administering a preliminary impairment test shall have regard to the code of practice under this Article.
- (6) A constable may administer a preliminary impairment test only if he is approved for that purpose by the Chief Constable.
- (7) A code of practice under this Article may include provision about—
  - (a) the giving of approval under paragraph (6), and
  - (b) in particular, the kind of training that a constable should have undergone, or the kind of qualification that a constable should possess, before being approved under that paragraph.

### **Preliminary drug test**

- 17C.**—(1) A preliminary drug test is a procedure by which a specimen of sweat or saliva is—
- (a) obtained, and
  - (b) used for the purpose of obtaining, by means of a device of a type approved by the Department, an indication whether the person to whom the test is administered has a drug in his body.
- (2) A preliminary drug test may be administered—
- (a) at or near the place where the requirement to co-operate with the test is imposed, or
  - (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.
- (3) For the purposes of paragraph (1)(b) a device shall be treated as of a type approved by the Department where a statement that the Department has approved a device of that type is included in the Belfast Gazette.

### **Arrest**

- 17D.**—(1) A constable may arrest a person without warrant if as a result of a preliminary breath test the constable reasonably suspects that the proportion of alcohol in the person's breath or blood exceeds the prescribed limit.
- (2) A constable may arrest a person without warrant if—
- (a) the person fails to co-operate with a preliminary test in pursuance of a requirement imposed under Article 17, and
  - (b) the constable reasonably suspects that the person has alcohol or a drug in his body or is under the influence of a drug.
- (3) A person may not be arrested under this Article while at a hospital as a patient.

### **Power of entry**

- 17E.** A constable may enter any place (using reasonable force if necessary) for the purpose of—
- (a) imposing a requirement by virtue of Article 17(5) following an accident in a case where the constable reasonably suspects that the accident involved injury of any person, or

- (b) arresting a person under Article 17D following an accident in a case where the constable reasonably suspects that the accident involved injury of any person.”.

**Period of endorsement for failure to allow specimen to be tested**

15. In Article 50(6) of the Offenders Order (effect of endorsement: period for which effective), after sub-paragraph (b) insert

“or

- (c) under Article 18A(6) of that Order (failing to allow a specimen to be subjected to laboratory test),”.

*Powers of enforcement*

**Giving of fixed penalty notices by vehicle examiners**

16. Schedule 2 (which makes provision for the giving of fixed penalty notices by vehicle examiners and connected matters) shall have effect.

**Extension of powers of vehicle examiners**

17.—(1) For Article 180A of the Order of 1981 substitute—

**“Powers of vehicle examiners**

**180A.** An examiner appointed under Article 74 of the Order of 1995 may, on production if required of his authority, exercise all such powers as are exercisable by a constable under—

- (a) Article 177(1)(a) and (c); and  
(b) Article 180.”.

(2) In Article 75(2) of the Order of 1995 (powers of authorised examiners for purpose of testing vehicles) before paragraph (a) insert—

- “(za) may, if he is a person appointed as an examiner under Article 74, and without prejudice to Article 180(1) of the Order of 1981 (power of constable in uniform to require vehicle to stop), require the vehicle to stop;”.

**Power of arrest in relation to failure to stop a vehicle**

18.—(1) After Article 180(1) of the Order of 1981 (failure to stop for constable in uniform) insert—

“(1A) A constable in uniform may arrest a person without warrant if he has reasonable cause to believe that the person has committed an offence under paragraph (1).”.

(2) In Article 19(1) of the [Police and Criminal Evidence \(Northern Ireland\) Order 1989 \(NI 12\)](#) (power of entry to effect arrest for certain offences) after sub-paragraph (cb) insert—

- “(cc) of arresting a person for an offence under Article 180(1) of the Road Traffic (Northern Ireland) Order 1981;”.

(3) This Article has no effect in relation to offences committed before it comes into operation.

**Production of certain documents**

19.—(1) Article 180 of the Order of 1981 (enforcement powers of constable) is amended as follows.

(2) In paragraph (2)—

- (a) after “certificate of insurance” insert “or certificate of security”;
- (b) in sub-paragraph (b) the words “or other public place” shall cease to have effect; and
- (c) after sub-paragraph (b) insert—
  - “(ba) in the case of a certificate of insurance or certificate of security, test certificate or goods vehicle test certificate, whom he reasonably suspects to have been involved in an accident in a public place; or”.
- (3) In paragraph (4) after “certificate of insurance”, in both places where it occurs, insert “or certificate of security”.
- (4) After paragraph (8) insert—
  - “(9) In this Article “certificate of insurance” and “certificate of security” include any document issued under regulations made by the Department under Article 103 which prescribe the evidence which may be produced in lieu of a certificate of insurance or a certificate of security.”.

### **Seizure of licences**

**20.** In Article 180 of the Order of 1981 (enforcement powers of constable) after paragraph (3B) insert—

- “(3C) If—
  - (a) a person is required to deliver his licence and its counterpart to the Department under section 64 of the Crime (International Co-operation) Act 2003 (c. 32) or the Department has—
    - (i) revoked a licence under Article 9, 10 or 15, or
    - (ii) revoked or suspended a large goods vehicle driver’s licence or a passenger-carrying vehicle driver’s licence under Article 73, or
    - (iii) served notice requiring the delivery of a licence to it in pursuance of Article 15C, 19G or 73A, and
  - (b) the holder of the licence fails to deliver it and its counterpart to the Department in pursuance of Article 9, 10, 15, 15C, 19G, 73A or 75 or section 64 of the Crime (International Co-operation) Act 2003 (as the case may be),
 a constable may require him to produce the licence and its counterpart, and upon their being produced may seize them and deliver them to the Department.”.

### *Miscellaneous*

### **Power to seize etc. vehicles driven without insurance**

**21.** After Article 180B of the Order of 1981 insert—

#### **“Power to seize vehicles driven without insurance**

- 180C.**—(1) Paragraph (4) applies if any of the following conditions is satisfied.
- (2) The first condition is that—
  - (a) a constable in uniform requires, under Article 180(2), a person to produce evidence that a motor vehicle is not or was not being driven in contravention of Article 90;
  - (b) the person fails to produce such evidence; and

- (c) the constable has reasonable grounds for believing that the vehicle is or was being so driven.
  - (3) The second condition is that—
    - (a) a constable in uniform requires, under Article 180(1), a person driving a motor vehicle to stop the vehicle;
    - (b) the person fails to stop the vehicle, or to stop the vehicle long enough, for the constable to make such lawful enquiries as he considers appropriate; and
    - (c) the constable has reasonable grounds for believing that the vehicle is or was being driven in contravention of Article 90.
  - (4) Where this paragraph applies, the constable may—
    - (a) seize the vehicle in accordance with paragraphs (5) and (6) and remove it;
    - (b) enter, for the purpose of exercising a power falling with sub-paragraph (a), any premises (other than a private dwelling house) on which he has reasonable grounds for believing the vehicle to be;
    - (c) use reasonable force, if necessary, in the exercise of any power conferred by sub-paragraph (a) or (b).
  - (5) Before seizing the motor vehicle, the constable must warn the person by whom it appears that the vehicle is or was being driven in contravention of Article 90 that he will seize it if the person does not provide him immediately with evidence that the vehicle is not or was not being driven in contravention of that Article.
- But the constable is not required to give him such a warning if the circumstances make it impracticable for him to do so.
- (6) If the constable is unable to seize the vehicle immediately because the person driving the vehicle has failed to stop as requested or has driven off, he may seize it at any time within the period of 24 hours beginning with the time at which the condition in question is first satisfied.
  - (7) The powers conferred on a constable by this Article are exercisable only at a time when regulations under Article 180D are in operation.
  - (8) In this Article—
    - (a) a reference to a motor vehicle does not include an invalid carriage;
    - (b) a reference to evidence that a motor vehicle is not or was not being driven in contravention of Article 90 is a reference to a document or other evidence within Article 103(1)(b);
    - (c) “private dwelling house” does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

#### **Retention etc. of vehicles seized under Article 180C**

- 180D.**—(1) The Secretary of State may by regulations make provision as to—
- (a) the removal and retention of motor vehicles seized under Article 180C; and
  - (b) the release or disposal of such motor vehicles.
- (2) Regulations under paragraph (1) may, in particular, make provision—
- (a) for the giving of notice of seizure of a motor vehicle under Article 180C to a person who is the registered keeper, the owner or the driver of that vehicle;
  - (b) for the procedure by which a person who claims to be the registered keeper or the owner of a motor vehicle seized under Article 180C may seek to have it released;

- (c) for requiring the payment, by the registered keeper, owner or driver of the vehicle, of fees, charges or costs in relation to the removal and retention of such a motor vehicle and to any application for its release;
  - (d) as to the circumstances in which a motor vehicle seized under Article 180C may be disposed of;
  - (e) as to the destination—
    - (i) of any fees, charges or costs payable in accordance with the regulations;
    - (ii) of the proceeds (if any) arising from the disposal of a motor vehicle seized under Article 180C.
- (3) Regulations under paragraph (1) must provide that a person who would otherwise be liable to pay any fee, charge or cost under the regulations is not liable to pay it if—
- (a) he was not driving the motor vehicle at the time in question, and
  - (b) he did not know that the vehicle was being driven at that time, had not consented to its being driven and could not, by the taking of reasonable steps, have prevented it from being driven.
- (4) Regulations under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.
- (5) In this Article “registered keeper”, in relation to a motor vehicle, means the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994.”.

#### *Graduated fixed penalties*

#### **Graduated fixed penalties**

**22.** Article 59 of the Offenders Order (amount of fixed penalty) shall be renumbered as paragraph (1) of that Article and after that paragraph insert—

- “(2) Any order made under paragraph (1) in relation to an offence may make provision for the fixed penalty for the offence to be different depending on the circumstances, including (in particular)—
- (a) the nature of the contravention constituting the offence;
  - (b) how serious it is;
  - (c) the area, or sort of place, where it takes place; and
  - (d) whether the offender appears to have committed any offence or offences of a description specified in the order during a period so specified.”.

#### **Graduated fixed penalty points**

**23.—**(1) Article 30 of the Offenders Order (penalty points to be attributed to an offence) is amended as follows.

(2) For paragraph (3) substitute—

- “(3) For the purposes of Articles 63(5) and 82(4), the number of penalty points to be attributed to an offence is—
- (a) where a range of numbers is shown in the last column of Part I or Part II of Schedule 1 in relation to an offence, the lowest number in the range, or



- (b) where a range of numbers followed by the words “or appropriate penalty points (graduated fixed penalty)” is shown there in relation to the offence, the appropriate number of penalty points for the offence.
- (3A) For the purposes of paragraph (3)(b) the appropriate number of penalty points for an offence is such number of penalty points as the Department may by order prescribe.
- (3B) An order made under paragraph (3A) in relation to an offence may make provision for the appropriate number of penalty points for the offence to be different depending on the circumstances, including (in particular)—
  - (a) the nature of the contravention constituting the offence;
  - (b) how serious it is;
  - (c) the area, or sort of place, where it takes place; and
  - (d) whether the offender appears to have committed any offence or offences of a description specified in the order during a period so specified.”.
- (3) After paragraph (7)(a) insert—
  - “(ab) add or delete the words “or appropriate penalty points (graduated fixed penalty)” in relation to an offence in the last column of Part I or Part II of Schedule 1,”.
- (4) After paragraph (7) insert—
  - “(7A) Before making an order under paragraph (3A) the Department must consult with such representative organisations as it thinks fit.”.
- (5) In paragraph (8) for “paragraph (7)” substitute “this Article”.

#### **Graduated fixed penalty points for speeding offences**

- 24. In Schedule 1 to the Offenders Order (prosecution and punishment of offences)—
  - (a) in Part I, in column (7), for the entry relating to Article 7 of the [Road Traffic Regulation \(Northern Ireland\) Order 1997 \(NI 2\)](#) (temporary traffic regulation) substitute “2-6 or appropriate penalty points (graduated fixed penalty) if as described in column 5.”;
  - (b) in Part I, in column (7), for the entry relating to Article 43 of the Road Traffic Regulation (Northern Ireland) Order 1997 (contravening speed limit) substitute “2-6 or appropriate penalty points (graduated fixed penalty) if as described in column 5.”;
  - (c) in Part II, in column (4), for the entry relating to Article 20 of the [Roads \(Northern Ireland\) Order 1993 \(NI 15\)](#) (restriction on use of special roads) substitute “2-6 or appropriate penalty points (graduated fixed penalty) if committed in respect of a speed restriction, 3 in any other case.”.

#### *Miscellaneous*

#### **Offence of keeping vehicle which does not meet insurance requirements**

- 25.—(1) In the Order of 1981, after Article 91 insert—

##### **“Offence of keeping vehicle which does not meet insurance requirements**

91A.—(1) If a motor vehicle registered under the Vehicle Excise and Registration Act 1994 does not meet the insurance requirements, the person in whose name the vehicle is registered is guilty of an offence.

- (2) For the purposes of this Article a vehicle meets the insurance requirements if—

- (a) it is covered by a such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part, and
  - (b) either of the following conditions is satisfied.
- (3) The first condition is that the policy or security, or the certificate of insurance or security which relates to it, identifies the vehicle by its registration mark as a vehicle which is covered by the policy or security.
- (4) The second condition is that the vehicle is covered by the policy or security because—
- (a) the policy or security covers any vehicle, or any vehicle of a particular description, the owner of which is a person named in the policy or security or in the certificate of insurance or security which relates to it, and
  - (b) the vehicle is owned by that person.
- (5) For the purposes of this Article a vehicle is covered by a policy of insurance or security if the policy of insurance or security is in force in relation to the use of the vehicle.

#### **Exceptions to Article 91A offence**

**91B.**—(1) A person (“the registered keeper”) in whose name a vehicle which does not meet the insurance requirements is registered at any particular time (“the relevant time”) does not commit an offence under Article 91A at that time if any of the following conditions are satisfied.

(2) The first condition is that at the relevant time the vehicle is owned as described in paragraph (2) or (2A) of Article 90 (whether or not at the relevant time it is being driven as described in that provision).

- (3) The second condition is that the registered keeper—
- (a) is not at the relevant time the person keeping the vehicle, and
  - (b) if previously he was the person keeping the vehicle, he has by the relevant time complied with any requirements under paragraph (6)(a) that he is required to have complied with by the relevant or any earlier time.
- (4) The third condition is that—
- (a) the registered keeper is at the relevant time the person keeping the vehicle,
  - (b) at the relevant time the vehicle is not used on a road or other public place, and
  - (c) the registered keeper has by the relevant time complied with any requirements under paragraph (6)(a) that he is required to have complied with by the relevant or any earlier time.
- (5) The fourth condition is that—
- (a) the vehicle has been stolen before the relevant time,
  - (b) the vehicle has not been recovered by the relevant time, and
  - (c) any requirements under paragraph (6)(b) that, in connection with the theft, are required to have been complied with by the relevant or any earlier time have been complied with by the relevant time.
- (6) Regulations may make provision—
- (a) for the purposes of paragraph (3)(b) and (4)(c), requiring a person in whose name a vehicle is registered to furnish such particulars and make such declarations as may be prescribed, and to do so at such times and in such manner as may be prescribed, and
  - (b) for the purposes of paragraph (5)(c), as to the persons to whom, the times at which and the manner in which the theft of a vehicle is to be notified.

(7) Regulations may make provision amending this Article for the purpose of providing for further exceptions to Article 91A (or varying or revoking any such further exceptions).

(8) A person accused of an offence under Article 91A is not entitled to the benefit of an exception conferred by or under this Article unless evidence is adduced that is sufficient to raise an issue with respect to that exception; but where evidence is so adduced it is for the prosecution to prove beyond reasonable doubt that the exception does not apply.

### **Fixed penalty notices**

**91C.**—(1) Where on any occasion the Department has reason to believe that a person has committed an offence under Article 91A, the Department may give the person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the Department.

(2) Where a person is given a notice under this Article in respect of an offence under Article 91A—

- (a) no proceedings may be instituted for that offence before the end of the period of 21 days following the date of the notice, and
- (b) he may not be convicted of that offence if he pays the fixed penalty before the end of that period.

(3) A notice under this Article must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(4) A notice under this Article must also state—

- (a) the period during which, by virtue of paragraph (2), proceedings will not be taken for the offence,
- (b) the amount of the fixed penalty, and
- (c) the person to whom and the address at which the fixed penalty may be paid.

(5) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty to the person mentioned in paragraph (4)(c) at the address so mentioned.

(6) Where a letter is sent in accordance with paragraph (5) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(7) Regulations may make provision as to any matter incidental to the operation of this Article, and in particular—

- (a) as to the form of a notice under this Article,
- (b) as to the information to be provided in such a notice by virtue of this Article, and
- (c) as to any further information to be provided in a such notice.

(8) The fixed penalty payable under this Article is, subject to paragraph (9), £100.

(9) Regulations may substitute a different amount for the amount for the time being specified in paragraph (8).

(10) Regulations may make provision for treating a fixed penalty payable under this Article as having been paid if a lesser amount is paid before the end of a prescribed period.

(11) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the Department, and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

#### **Article 91A offence: supplementary**

**91D.**—(1) Schedule 2A makes provision about the immobilisation of vehicles as regards which it appears that an offence under Article 91A is being committed and about their removal and disposal.

(2) A person authorised by the Department for the purposes of this paragraph may on behalf of the Department conduct and appear in any proceedings by or against the Department in any court of summary jurisdiction in connection with the enforcement of an offence under Article 91A or under regulations made under Article 103 by virtue of Schedule 2A.”.

(2) In the Order of 1981, after Article 102 insert—

#### **“Disclosure of information**

**102A.**—(1) Regulations may make provision for an in connection with requiring MIIC to make information available to any prescribed person for the purposes of the exercise of any of that person’s functions in connection with the enforcement of an offence under this Part or under regulations made under Article 103.

(2) In this Article—

“information” means information held in any form;

“MIIC” means the Motor Insurers' Information Centre (a company limited by guarantee and incorporated under the Companies Act 1985 (c. 6) on 8th December 1998).”.

(3) After Schedule 2 to the Order of 1981 insert the Schedule 2A set out in Schedule 3 to this Order.

(4) In Article 92(a) of the Offenders Order (penalty for breach of regulations under Order of 1981) for “of that Order” substitute “or under Article 103 of that Order by virtue of Schedule 2A”.

(5) Part 1 of Schedule 1 to the Offenders Order (prosecution and punishment of offences) is amended as follows.

(6) After the entry relating to Article 90 of the Order of 1981 insert—

|              |   |            |                                  |
|--------------|---|------------|----------------------------------|
| “Article 91A | Keeping vehicle which does not meet insurance requirements. | Summarily. | Level 3 on the standard scale.”. |
|--------------|---|------------|----------------------------------|

(7) After the entry relating to Article 97 of the Order of 1981 insert—

|   |  |            |                                |
|---|--|------------|--------------------------------|
| “Regulations under Article 103 made by virtue of paragraph 2(1) of Schedule 2A. | Contravention of provision of regulations (which is declared by regulations to be an offence) prohibiting removal of or interference with immobilisation notice. | Summarily. | Level 2 on the standard scale. |
| Regulations under Article 103 made by virtue of paragraph 2(2) of Schedule 2A.  | Contravention of provision of regulations (which is declared by regulations to   | Summarily. | Level 3 on the standard scale. |

|  |  |                                      |   |
|--|--|--------------------------------------|---|
|  | be an offence)<br>prohibiting removal or<br>attempted removal of<br>immobilisation device  |                                      |   |
| Regulations under Article 103 made by virtue of paragraph 2(3) of Schedule 2A. | Contravention of provision of regulations (which is declared by regulations to be an offence) about display of disabled person's badge.  | Summarily.                           | Level 3 on the standard scale.                                |
| Regulations under Article 103 made by virtue of paragraph 2(4) of Schedule 2A. | Contravention of provision of regulations (which is declared by regulations to be an offence) prohibiting making of false or misleading declaration to secure release of vehicle from immobilisation device. | (a) Summarily.<br>(b) On indictment  | (a) The statutory maximum.<br>(b) 2 years or a fine or both   |
| Regulations under Article 103 made by virtue of paragraph 4 of Schedule 2A.    | Contravention of provision of regulations (which is declared by regulations to be an offence) prohibiting making of false or misleading declaration to secure possession of vehicle in person's custody.     | (a) Summarily.<br>(b) On indictment. | (a) The statutory maximum.<br>(b) 2 years or a fine or both." |

**Seat belts: delivery drivers**

26. For Article 23(2)(c)(i) of the Order of 1995 (seat belts: exceptions: delivery drivers) substitute—

“(i) the driver of, or a passenger in, a motor vehicle constructed or adapted for carrying goods, while on a journey which does not exceed the prescribed distance and which is undertaken for the purpose of delivering or collecting any thing,”.

**Disqualification until test passed**

27.—(1) Article 41 of the Offenders Order (duty of court to order disqualification until test is passed) is amended as follows.

(2) In paragraph (3) (order to be made in case of person disqualified in circumstances, or for period, prescribed by order) for “in such circumstances or for such period” substitute “for such period, in such circumstances or for such period and in such circumstances”.

(3) In paragraph (5) (interpretation) for the definition of “appropriate driving test” substitute—

““appropriate driving test” means—

(a) in such circumstances as the Department may by order prescribe, an extended driving test, and

(b) otherwise, a test of competence to drive which is not an extended driving test.”

(4) In paragraph (8) (disqualification to expire on production in accordance with regulations under Article 5(3) of the Order of 1981 of evidence of having passed test) for “under Article 5(3) of the Order of 1981” substitute “made by the Department”.

(5) In paragraph (9) (disqualification to expire by reason of passing of test only in relation to vehicles of such classes as are prescribed by such regulations) for “under that Article” substitute “made by the Department”.

(6) In paragraph (13) (procedure for making orders or regulations under that Article) after “subject to affirmative resolution” insert “and all other regulations under this Article shall be subject to negative resolution”.

(7) Omit paragraph (14) (no order to be made under paragraph (3) after end of 2004 unless one previously made).

#### **Notice of prosecution for certain offences**

**28.** In Article 5 of the Offenders Order (requirement of warning etc. of prosecutions for certain offences) after paragraph (1) insert–

“(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.”.

#### **False statements, forgery and power of seizure in connection with certain documents**

**29.**—(1) Article 174 of the Order of 1981 (false statements in connection with forgery of, and fraudulent use of, documents; issue of false insurance certificate and powers of seizure) is amended as follows.

(2) In paragraph (1)(a) for “application for any licence or a goods vehicle certificate under the Road Traffic Orders” substitute–

“application for–

- (i) any licence under the Road Traffic Orders;
- (ii) a goods vehicle test certificate under the Road Traffic Orders;
- (iii) an international road haulage permit;
- (iv) the entry or retention of a name in the register of driving instructors maintained under Part V of the Order of 2007;
- (v) a document evidencing the successful completion of training provided in accordance with regulations under Article 64 of the Order of 2007;
- (vi) any certificate under Article 65 of the Order of 2007.”.

(3) After paragraph (1)(d) insert–

“(e) knowingly produces false evidence for the purposes of regulations under Article 72 of the Order of 1995 or knowingly makes a false statement in a declaration required to be made by those regulations;

(f) intentionally makes a false entry in any record required to be made or kept by regulations under Article 82 of the Order of 1995, or with intent to deceive, makes use of any such entry which he knows to be false.”.

(4) For paragraph (2) substitute–

“(2) A person who, with intent to deceive–

- (a) forges, alters or uses a document or other thing listed in paragraph (2A); or
  - (b) lends to, or allows to be used by, any other person a document or other thing listed in paragraph (2A); or
  - (c) makes or has in his possession any document or other thing so closely resembling a document or other thing listed in paragraph (2A) as to be calculated to deceive,
- is guilty of an offence.

(2A) The documents or other things referred to in paragraph (2) are—

- (a) any licence under the Road Traffic Orders or, in the case of a licence to drive, any counterpart of such a licence;
- (b) any counterpart of a Great Britain licence or Community licence;
- (c) any international road haulage permit;
- (d) any document which, in pursuance of Article 5(3) of this Order, is issued as evidence of the result of a test of competence to drive;
- (e) any certificate provided for by regulations under Article 13(3A) of this Order relating to the completion of a training course for motor cyclists;
- (f) any certificate of conformity or Department's approval certificate within the meaning of Part IV of this Order;
- (g) any certificate of insurance or certificate of security under Article 92 or 93 of this Order;
- (h) any certificate required as a condition of any exception prescribed under Article 23 of the Order of 1995;
- (i) any test certificate, goods vehicle test certificate, plating certificate or certificate of temporary exemption within the meaning of Part III of the Order of 1995;
- (j) any seal required by regulations made under Article 55 of the Order of 1995 with respect to speed limiters;
- (k) any plate containing particulars required to be marked on a vehicle by regulations made under Article 55 of the Order of 1995;
- (l) any certificate evidencing the examination of a motor vehicle modified to be propelled using fuel stored under pressure under regulations made under Article 55 of the Order of 1995
- (m) any document evidencing the appointment of an examiner under Article 74 of the Order of 1995;
- (n) any notice removing a prohibition under Article 77 (power to prohibit driving of unfit vehicles) or Article 79 (power to prohibit driving of overloaded vehicles) of the Order of 1995;
- (o) any records required to be kept by virtue of Article 82 of the Order of 1995;
- (p) a certificate of the kind referred to in Article 32B(1) (reduced penalty points for attendance on course) or Article 37(1) (reduced disqualification period for attendance on course) of the Offenders Order;
- (q) any document produced as evidence of the passing of an appropriate driving test within the meaning of Article 41 of the Offenders Order;
- (r) any document evidencing the passing of an examination (or part of an examination) required by regulations under Article 62 or the successful completion of training provided in accordance with regulations under Article 64 of the Order of 2007;

- (s) any certificate under Article 65 of the Order of 2007;
- (t) any certificate or other item prescribed under Article 70(1)(a) of the Order of 2007;
- (u) any document produced as evidence of insurance in pursuance of Regulation 6 of the European Communities (Motor Vehicles: Compulsory Insurance) (Northern Ireland) Regulations 1973.

(2B) In paragraph (2A), “Community licence”, “counterpart” and “Great Britain licence” have the same meanings as in Part II.”.

(5) In paragraph (3)–

- (a) for the words from the beginning to “is a document” substitute–  
“If–

- (a) a constable or examiner appointed under Article 74 of the Order of 1995 has reasonable cause to believe that a document or other thing produced to him under this Order by the driver of a motor vehicle;
- (b) a constable or examiner appointed under Article 74 of the Order of 1995 has reasonable cause to believe that any plate containing particulars required to be marked on a vehicle by regulations made under Article 55 of the Order of 1995;
- (c) a constable or any person authorised in writing by the Department under Article 72 of the Order of 2007 has reasonable cause to believe that a certificate or other item produced to him under Article 72 of that Order by the driver of a motor vehicle,

is a document or other thing”,

- (b) after “document”, in each place where it occurs, insert “or other thing”.

(6) After that paragraph insert–

“(3A) For the purposes of paragraph (3) the power to seize includes a power to detach from a vehicle.”.

## PART III

### DRIVER LICENSING

#### **Driving otherwise than in accordance with a licence**

**30.** In Article 3 of the Order of 1981–

- (a) in paragraph (1) (offence for a person to drive if he is not the holder of a licence) for the words “if he is not the holder of” substitute the words “otherwise than in accordance with”;
- (b) in paragraph (2) (offence to allow a person to drive if he does not hold a licence) for the words “if that other person is not the holder of a licence authorising him” substitute the words “otherwise than in accordance with a licence authorising that other person”.

#### **Power to remove requirement to apply for licence after passing of test**

**31.** In Article 5(1) of the Order of 1981 (grant of licence) after the words “he meets the relevant residence requirement and satisfies the Department” insert the words “(or, in the case of a test of competence passed under paragraph (a)(i) after a prescribed day, the Department is satisfied in such manner as may be prescribed)”.



### **Removal of two year period from passing of test in which to apply for licence**

**32.** For Article 5(1)(a) of the Order of 1981 (requirement to apply for licence within two year period from date test of competence passed) substitute—

- “(a) that he has passed—
- (i) the test of competence to drive prescribed by virtue of paragraph (3) not earlier than the appointed day, or
  - (ii) a Great Britain test of competence to drive which corresponds to such a test at some time during the period of 2 years ending with the date the application is made but not earlier than the appointed day, or
  - (iii) a test of competence which under paragraph (7) is a sufficient test at some time during the period of 2 years ending with the date the application is made but not earlier than the appointed day;
- or that, if it is available to him, he satisfies the alternative requirement of Article 6; or”.

### **Physical fitness**

**33.—(1)** In Article 9 of the Order of 1981 (requirements as to physical fitness of drivers) after paragraph (12) insert—

“(13) A person who holds a licence authorising him to drive a motor vehicle of any class and who drives a motor vehicle of that class on a road is guilty of an offence if the declaration included in accordance with paragraph (1) in the application on which the licence was granted was one which he knew to be false.”.

(2) In Article 11 of the Order of 1981 (provision of information relating to disabilities) after paragraph (3A) insert—

“(3B) A person who holds a licence authorising him to drive a motor vehicle of any class and who drives a motor vehicle of that class on a road is guilty of an offence if at any earlier time while the licence was in force he was required by paragraph (1) to notify the Department but has failed without reasonable excuse to do so.”.

(3) After Article 11 of the Order of 1981 insert—

### **“Driving after refusal or revocation of licence**

**11A.—(1)** A person who drives a motor vehicle of any class on a road otherwise than in accordance with a licence authorising him to drive a motor vehicle of that class is guilty of an offence if—

- (a) at any earlier time the Department—
  - (i) has in accordance with Article 9(3) refused to grant such a licence,
  - (ii) has under Article 10(1) or (2) revoked such a licence, or
  - (iii) has served a notice on that person in pursuance of Article 15C(1) or (2) or 19G requiring him to deliver to the Department a Community or Great Britain licence authorising him to drive a motor vehicle of that or a corresponding class, and
- (b) since that earlier time he has not been granted—
  - (i) a licence under this Part, or
  - (ii) a Community licence,authorising him to drive a motor vehicle of that or a corresponding class.

(2) Article 4 shall apply in relation to paragraph (1) of this Article as it applies in relation to Article 3.”

### **Payment of fee for confirmation in writing of person’s entitlement to drive**

**34.** In Article 19C(1A) of the Order of 1981 (regulations in respect of licences etc.) after sub-paragraph (ea) insert–

- “(eb) providing for the issue, on payment of such fee, and compliance with such conditions, as may be prescribed, of confirmation in writing of a person’s entitlement to drive.”

### **Exchangeable driving licences**

**35.** In Article 19D of the Order of 1981 (interpretation)–

- (a) after the definition of “EEA State” in paragraph (1) insert–

““EEA State exchangeable licence” means a licence–

- (a) issued in respect of an EEA State other than the United Kingdom by an authority of that or another EEA State; and  
 (b) issued in exchange for a British external licence or a document which was an exchangeable licence;”;

- (b) for the definition of “exchangeable licence” in paragraph (1) substitute–

““exchangeable licence” means an EEA State exchangeable licence or a document authorising a person to drive a motor vehicle (not being a document mentioned in sub-paragraph (b) of the definition of “Community licence”)–

- (a) issued in respect of Gibraltar by an authority of Gibraltar,  
 (b) issued in respect of a country or territory which is designated without restriction by an order under paragraph (2)(a) by an authority of that country or territory, or  
 (c) issued in respect of a country or territory which is designated by a restricted order under paragraph (2)(b) by an authority of that country or territory, being a document which is a licence of a description specified in that order, and a licence of a description so specified as to which provision is made as mentioned in paragraph (2B) is only an exchangeable licence to the extent that it authorises its holder to drive vehicles of a class specified in the order;”;

- (c) for paragraph (2) substitute–

“(2) The Department may by order designate a country or territory which neither is nor forms part of an EEA State for the purposes of the definition of “exchangeable licences” in paragraph (1)–

- (a) as respects all licences authorising the driving of motor vehicles granted under the law of that country or territory, where the Department is satisfied that satisfactory provision is made by that law for the granting of licences to drive motor vehicles;  
 (b) as respects only licences authorising the driving of motor vehicles granted under the law of that country or territory of a description specified in the order, where the Department is satisfied that satisfactory provision is made by that law for the granting of licences of that description.

(2A) An order under paragraph (2)(b) may specify a description of licence by reference to any feature of the licences concerned (including in particular the

circumstances in which they are granted, any conditions to which they are subject or the classes of vehicle which they authorise the holders to drive).”.

(2B) An order under paragraph (2)(b) may provide that a licence of a specified description shall only be an exchangeable licence in so far as it authorises its holder to drive vehicles of a class specified in the order.”.

### **Access to driver licensing information**

**36.** After Article 19H of the Order of 1981 insert—

#### **“Access to driver licensing information**

**19I.**—(1) The Department may make any information held by it for the purposes of this Part available to—

- (a) constables,
- (b) police support staff,
- (c) members of a police force in Great Britain,
- (d) persons employed by a police authority under section 15(1) of the Police Act 1996 who are under the direction and control of the chief officer of police of the police force maintained by that authority,
- (d) persons employed by a police authority under section 9(1) of the Police (Scotland) Act 1967 who are under the direction and control of the chief constable of the police force maintained for the authority’s area,
- (e) persons employed by the British Transport Police Authority under section 27(1) of the Railways and Transport Safety Act 2003 who are under the direction and control of the Chief Constable of the British Transport Police,
- (f) members of the staff of the Serious Organised Crime Agency,
- (g) such other persons as may be prescribed.

(2) In respect of any information made available under paragraph (1) the Department may by regulations—

- (a) determine the purposes for which persons may be given access to the information,
- (b) determine the circumstances in which any of the information to which those persons have been given access may be further disclosed by them.

(3) In this Article—

“information” means information held in any form;

“a police force in Great Britain” has the same meaning as in section 73(4) of the Police (Northern Ireland) Act 1998 (c. 32).”.

### **Applying for or obtaining a driving licence, or driving, while disqualified**

**37.** After Article 168 of the Order of 1981 insert—

#### **“Applying for or obtaining a driving licence, or driving, while disqualified**

**168A.**—(1) Subject to paragraphs (3) and (4), a person is guilty of an offence if, while disqualified for holding or obtaining a driving licence, he—

- (a) applies for a licence, or
- (b) obtains a licence, or

(c) drives a motor vehicle on a road.

(2) A licence obtained by a person who is disqualified is of no effect (or, where the disqualification relates only to vehicles of a particular class, is of no effect in relation to vehicles of that class).

(3) Paragraph (1)(a) and (b) do not apply in relation to disqualification by virtue of Article 17.

(4) Paragraph (1)(c) does not apply in relation to disqualification by virtue of Article 18.

(5) In the application of paragraph (1) to a person whose disqualification is limited to the driving of motor vehicles of a particular class by virtue of—

(a) Article 18, 74 or 74A, or

(b) paragraph (9) of Article 41 of the Offenders Order (disqualification until test is passed),

the references to disqualification for holding or obtaining a licence, applying for a licence and driving motor vehicles are references to disqualification for holding or obtaining a licence to drive, applying for a licence for and driving motor vehicles of that class.”.

### **Driving record**

**38.** After Article 4 of the Offenders Order insert—

#### **“Meaning of “driving record”**

**4A.**—(1) In this Order “driving record”, in relation to a person, means a record in relation to the person maintained by the Department and designed to be endorsed with particulars relating to—

(a) offences under the Road Traffic Orders;

(b) an offence under Article 20 of the Roads (Northern Ireland) Order 1993; and

(c) the offence of manslaughter by the driver of a motor vehicle

committed by the person.

(2) The Department may make arrangements for the following persons to have access, by such means as the Department may determine, to information held on a person’s driving record—

(a) courts;

(b) constables;

(c) fixed penalty clerks;

(d) examiners appointed under Article 74 of the Order of 1995;

(e) the person in respect of whom the record is maintained and persons authorised by him; and

(f) such other persons as may be prescribed by regulations made by the Department subject to negative resolution.”.

### **Unlicensed and foreign drivers**

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

(2) In Article 49 (endorsement of licences)—

(a) for the heading substitute “Orders for endorsement”;

(b) after paragraph (2) insert–

“(2A) Where a person who is not the holder of a licence is convicted of an offence involving obligatory endorsement, paragraph (1) applies as if the reference to the counterpart of any licence held by him were a reference to his driving record.”.

(3) After that Article insert–

**“Endorsement of driving record in accordance with order**

**49A.**—(1) Where the court orders the endorsement of a person’s driving record with any particulars or penalty points it must send notice of the order to the Department.

(2) On receiving the notice, the Department must endorse those particulars or penalty points on the person’s driving record.

(3) A notice sent by the 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 require.”.

(4) In Article 60 (notices on-the-spot or at a police station), after paragraph (5) insert–

“(5A) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, and the person is not the holder of a licence, the constable or vehicle examiner may only give him a fixed penalty notice under paragraph (2) in respect of the offence if the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence.

(5B) Paragraph (5C) applies where–

- (a) the offence appears to the constable or vehicle examiner to involve obligatory endorsement,
- (b) the person concerned is not the holder of a licence, and
- (c) the constable or vehicle examiner is unable to satisfy himself, by accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence.

(5C) Where this paragraph applies, the constable or vehicle examiner may give the person a notice stating that if–

- (a) he delivers the notice in accordance with paragraph (5D), and
- (b) the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence,

he will then be given a fixed penalty in respect of the offence.

(5D) Delivery must–

- (a) if the notice is given by a constable, be made in person, within 7 days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or
- (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within 14 days after the notice is given, to the Department, at the place specified in the notice.

(5E) If a person to whom a notice has been given under paragraph (5C) delivers the notice in accordance with paragraph (5D), and the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence, that person must give him

a fixed penalty notice in respect of the offence to which the notice under paragraph (5C) relates.”.

(5) After Article 63 (endorsement of licences without hearings) insert–

**“Endorsement of driving records without hearings**

**63A.**—(1) Subject to paragraph (2), where a person who is not the holder of a licence has been given a fixed penalty notice under Article 60 in respect of an offence involving obligatory endorsement, his driving record may be endorsed in accordance with this Article without any order of a court.

(2) A person’s driving record may not be endorsed under this Article if at the end of the suspended enforcement period–

- (a) he has given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of the offence to which the fixed penalty notice relates, and
- (b) the fixed penalty has not been paid in accordance with this Part.

(3) If payment of the fixed penalty is made before the end of the suspended enforcement period and the person to whom the payment is made is the fixed penalty clerk, the fixed penalty clerk must send to the Department notice of the relevant particulars which are to be endorsed on the person’s driving record.

(4) Where any sum determined by reference to the fixed penalty is registered under Article 76 for enforcement against the person as a fine in a case where the fixed penalty is required to be paid to the fixed penalty clerk, the fixed penalty clerk must, on the registration of that sum, send to the Department notice of the relevant particulars which are to be endorsed on the person’s driving record.

(5) The Department must endorse the relevant particulars on the person’s driving record if–

- (a) it receives notice of them under paragraph (3) or (4),
- (b) the fixed penalty is paid to it before the end of the suspended enforcement period, or
- (c) in a case where the fixed penalty is required to be paid to the Department, any sum determined by reference to the fixed penalty is registered under Article 76 for enforcement against the person as a fine.

(6) References in this Article to the relevant particulars are to–

- (a) particulars of the offence, including the date when it was committed, and
- (b) the number of penalty points to be attributed to the offence.”.

(6) Schedule 4 (which contains further amendments in respect of the endorsement of driving records in the case of unlicensed and certain foreign drivers) shall have effect.

**All drivers**

**40.**—(1) The Offenders Order (as amended by Article 39 and Schedule 4) is amended as follows.

(2) In Article 49 (orders for endorsement)–

- (a) in paragraph (1), for “the counterpart of any licence held by him” substitute “his driving record”; and
- (b) omit paragraph (2A).

(3) In Article 60 (notices on-the-spot etc.)–

- (a) for paragraphs (3) to (5E) substitute–

“(3) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, the constable or vehicle examiner may only give him a fixed penalty notice under paragraph (2) in respect of the offence if–

- (a) the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence, and
- (b) in the case of a person who is the holder of a licence, he produced it for inspection by the constable or vehicle examiner and surrenders it to him to be retained and dealt with in accordance with this Part.

(4) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, paragraph (5) applies if–

- (a) the constable or vehicle examiner is unable to satisfy himself, by accessing the information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence, or
- (b) in the case of a person who is the holder of a licence, he does not produce it for inspection by the constable or vehicle examiner.

(5) Where this paragraph applies, the constable or vehicle examiner may give the person a notice stating that if–

- (a) he delivers the notice and (if he is the holder of a licence) his licence in accordance with paragraph (5A), and
- (b) the requirements of paragraph (5B) are met,

he will then be given a fixed penalty notice in respect of the offence.

(5A) Delivery must–

- (a) if the notice is given by a constable, be made in person, within 7 days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or
- (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within 14 days after the notice is given, to the Department at the place specified in the notice.

(5B) If a person to whom a notice has been given under paragraph (5) delivers the notice and (if he is the holder of a licence) his licence in accordance with paragraph (5A), and the following requirements are met, that is–

- (a) the person to whom the notice is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence, and
- (b) if he is the holder of a licence, it is delivered to be retained and dealt with in accordance with this Part,

the person to whom the notice is delivered must give him a fixed penalty notice in respect of the offence to which the notice under paragraph (5) relates.”;

(b) in paragraph (6), for “(4) or (5C)” substitute “(5)”;

(c) in paragraph (7), omit “and a counterpart of a licence”.

(4) Omit Article 63 (endorsement of counterparts without hearings).

(5) In Article 63A (endorsement of driving records without hearings)–

(a) in paragraph (1), omit “who is not the holder of a licence”;

- (b) in paragraph (3), at the end insert “and return to that person any licence surrendered to him under Article 60”
  - (c) in paragraph (4), after “record” insert “and return to that person any licence surrendered by him under Article 60”.
- (6) Schedule 5 (which contains further amendments about the endorsement of driving records in the case of all drivers) shall have effect.

## PART IV

### DRIVER AND VEHICLE TESTING

#### **Display of test certificates**

**41.** After Article 63 of the Order of 1995 (obligatory test certificates) insert–

**“Display of test certificates**

**63A.** A person who–

- (a) uses on a road or other public place at any time, or
- (b) causes or permits to be so used,

a motor vehicle to which Article 63 applies and on which there is not displayed a test certificate in accordance with regulations made under Article 62(g), is guilty of an offence.”.

#### **Vehicles modified to run on fuel stored under pressure**

**42.—**(1) Article 55 of the Order of 1995 (regulation of construction, weight, equipment and use of vehicles) is amended as follows–

(a) in paragraph (2) after sub-paragraph (b) insert–

“(ba) the modification of motor vehicles to enable them to be propelled using fuel stored under pressure;”;

(b) after that paragraph insert–

“(2A) Regulations under this Article with respect to the modification of motor vehicles to enable them to be propelled using fuel stored under pressure may include provision–

- (a) as to the examination, by persons authorised in accordance with regulations, of motor vehicles that have been so modified, the issuing of certificates by them in respect of such vehicles and the making of charges by them;
- (b) requiring authorised persons to notify the Department of any such examinations carried out by them;
- (c) as to appeals against any decision by an authorised person not to issue a certificate;
- (d) as to applications to the Department for authorisation and charges in connection with them;
- (e) imposing or providing for the imposition of conditions to be complied with by authorised persons;
- (f) as to the withdrawal of authorisations.”.



(2) In Article 72 of the Order of 1995 (regulations prohibiting the grant of excise licences for certain vehicles except on compliance with certain conditions) after paragraph (8) insert—

“(8A) The Department may by regulations provide, in relation to vehicles required to be examined and certified by regulations under Article 55(2A), that the first licence for such a vehicle under the Vehicle Excise and Registration Act 1994 for a period after the requirement applies to the vehicle is to be granted only if evidence is provided that a certificate has been issued in accordance with those regulations.”.

### **Testing of vehicles**

**43.**—(1) In the heading to Article 76 of the Order of 1995 and in the cross heading immediately before it for “public passenger vehicles and goods vehicles” substitute “vehicles”.

(2) After paragraph (4) insert—

“(4A) Paragraphs (5) to (8) of Article 75 apply in relation to an inspection under this Article as they apply in relation to a test under paragraph (1) of that Article, but—

- (a) with the substitution for references to an authorised examiner of references to a vehicle examiner; and
- (b) with the substitution for references to test and testing of references to examination and examining.”

(3) In paragraph (6) of that Article—

(a) after sub-paragraph (c) insert—

“(d) a motor car;”;

(b) after “within sub-paragraph (c)” insert “or (d)”.

(4) In Article 75 at the end add—

“(12) In its application to vehicles in which recording equipment is required by Article 3 of the Community Recording Equipment Regulation to be installed and used, this Article shall have effect as if any reference to construction and use requirements included a reference to requirements of so much of that Regulation as relates to the installation of recording equipment and the seals to be fixed to such equipment.”.

### **Tests of competence to drive**

**44.**—(1) In Article 5(3) of the Order of 1981 (regulations about nature of tests)—

(a) at the end of sub-paragraph (a) insert “and the administrative arrangements for submitting for such tests,”;

(b) in sub-paragraph (b), after “conducted” insert “ conditions which must be satisfied during the currency of an appointment, the charging of reasonable fees in respect of applications for appointment or appointments or in connection with any examination or assessment which may be required before appointment or during the currency of any appointment”, and

(c) after sub-paragraph (b) insert—

“(ba) the duty of a person submitting himself for a test to produce, and in prescribed circumstances surrender, any licence previously granted to him,”.

(2) In Article 5(4) of the Order of 1981 (provision that may be included in regulations under paragraph (3))—

- (a) in sub-paragraph (a) (provision by person submitting himself for driving test of vehicle which, if loading requirements are prescribed, is loaded in accordance with prescribed requirements) for “a vehicle” substitute “a safe and suitable vehicle”;
- (b) in that sub-paragraph for the words after “the test” substitute “and for requiring that, if the vehicle is a vehicle of a prescribed description, it has been certified in the prescribed manner after a prescribed inspection as satisfying such requirements as may be prescribed.”;
- (c) for sub-paragraph (b) substitute—
  - “(b) or the charging (whether on the making of an appointment for a test or otherwise) of reasonable fees for or in connection with the test and any inspection of a vehicle required by regulations under paragraph (a) in relation to the test.”.
- (3) In Article 5(5) of the Order of 1981 (driving tests in parts) omit sub-paragraph (b) and the word “and” immediately before it.
- (4) After Article 5(5) insert—
  - “(5ZA) Regulations under paragraph (3)(b) may in particular provide—
    - (a) for the supply by the Department to persons by whom tests of competence to drive, or parts of such tests, may be conducted of forms for certificates evidencing the results of such tests or parts of such tests, and
    - (b) for the charging of reasonable fees in respect of the exercise of any function conferred or imposed on the Department by the regulations.”.
- (5) In Article 8 of the Order of 1981 (repayment of fees) for “A fee” substitute “The whole or any part of a fee”.

### **Approved test assistants**

- 45.** After Article 8 of the Order of 1981 insert—

#### **“Approved test assistants**

**8A.—**(1) The Department may make regulations permitting any person wishing to be accompanied at a relevant test by another person (a “test assistant”) to be so accompanied if—

- (a) he submits himself for the relevant test in any circumstances in which the Department considers it appropriate that he should be entitled to be so accompanied; and
- (b) the test assistant is approved in accordance with regulations made under this Article to accompany people at relevant tests in such circumstances in order to assist them in undergoing the relevant tests.

(2) The circumstances in which the Department considers it appropriate that a person should be entitled to be accompanied by a test assistant at a relevant test may include, for example, circumstances in which he is likely to have difficulty in hearing, understanding or responding to instructions or questions in the course of the relevant test without assistance.

(3) The regulations may make provision in relation to the approval of test assistants and may, in particular, include provision—

- (a) in relation to the making of applications for approval;
- (b) for the payment in respect of applications for approval, or in connection with approvals, of fees of a prescribed amount;

- (c) in relation to the period for which an approval is to have effect and withdrawing approval;
  - (d) authorising the imposition of conditions on an approval;
  - (e) for an appeal to lie to a court of summary jurisdiction acting for the petty sessions district in which the person resides against a refusal of an application for approval, the imposition of conditions on an approval or the withdrawal of approval;
  - (f) prescribing circumstances in which an approved test assistant may not act as such;
  - (g) as to the evidencing by persons of their status as approved test assistants;
  - (h) authorising the Department to make available (with or without charge) information about approved test assistants.
- (4) In this Article “relevant tests” means—
- (a) tests of competence to drive a motor vehicle prescribed by virtue of Article 5(3) of this Order or Article 41(5) of the Offenders Order;
  - (b) examinations of ability and fitness (or continued ability and fitness) to give driving instruction for which provision is made by virtue of Article 62 of the Order of 2007;
  - (c) emergency control assessments under Article 65 of the Order of 2007.”.

## PART V

### DRIVING INSTRUCTION

#### *Introductory*

#### **Interpretation of this Part**

**46.**—(1) For the purposes of this Part persons may carry on business in the provision of driving instruction in any way, including in particular—

- (a) by giving instruction themselves;
- (b) by arranging for the giving of driving instruction by their employees; or
- (c) by arranging for the giving of driving instruction by persons who are franchisees under driving instruction franchises under which they are the franchisor.

(2) In this Part “a driving instruction franchise” is an agreement under which one party (“the franchisor”) grants to another party (“a franchisee”) rights consisting of or including the right to use a particular trading name, style or design in the carrying on of business in the giving of driving instruction.

(3) In this Part references to “the franchisor” and “a franchisee”, in relation to a driving instruction franchise, shall be construed accordingly.

(4) In this Part “current”, in relation to a licence or certificate, means one which has not expired and has not been cancelled, revoked or suspended.

(5) In this Part—

- (a) “Community licence” and “counterpart”, in relation to a Community licence;
- (b) “provisional licence”; and
- (c) “motor vehicle”;

have the same meanings as in the Order of 1981.

(6) In this Part—

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Department.

### **Expressions defined in this Part**

47. The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part listed in the right-hand column in relation to those expressions.

| <i>Expression</i>  | <i>Relevant provision</i> |
|--|---------------------------|
| Appropriate motor vehicle                                      | Article 53(13)            |
| Carry on business in the provision of driving instruction      | Article 46(1)             |
| Community licence and counterpart                              | Article 46(5)             |
| Current (in relation to a licence or certificate)              | Article 46(4)             |
| Disability, prospective disability and relevant disability     | Article 53(13)            |
| Disabled person’s limited driving licence                      | Article 53(13)            |
| Driving instruction  | Article 48(3)             |
| Driving instruction franchise (and franchisor and franchisee)  | Article 46(2) and (3)     |
| Emergency control assessment and emergency control certificate | Article 53(13)            |
| Modifications, in relation to a motor vehicle                  | Article 53(13)            |
| Paid instruction   | Article 48(5) and (6)     |
| Prescribed   | Article 46(6)             |
| Provisional licence  | Article 46(5)             |
| Registered and registration                                    | Article 48(7)             |
| The register   | Article 48(8)             |
| Registered disabled instructor                                 | Article 53(13)            |
| The Registrar  | Article 51(2)             |
| Regulations  | Article 46(6)             |
| Relevant instructor examination                                | Article 63(2)             |

### *Instructors and instruction businesses to be registered*

#### **Requirement of registration**

48.—(1) A person—

- (a) must not give paid driving instruction of any prescribed description unless he is registered in respect of the giving of that description of driving instruction; and

- (b) must not carry on business in the provision of paid driving instruction of any prescribed description unless he is registered in respect of the carrying on of business in the provision of that description of driving instruction.
- (2) A person—
  - (a) must not give paid driving instruction of any prescribed description unless prescribed arrangements as to the displaying of evidence that he is registered in respect of the giving of that description of driving instruction are complied with; and
  - (b) must not carry on business in the provision of paid driving instruction of any prescribed description unless prescribed requirements as to the displaying of evidence that he is registered in respect of the carrying on of business in the provision of that description of driving instruction are complied with.
- (3) In this Part “driving instruction” means instruction in relation to the driving of a motor vehicle.
- (4) Regulations under this Part which prescribe a description of driving instruction may do so by reference to—
  - (a) the class of motor vehicle to which the instruction relates;
  - (b) the description of persons to whom the instruction is given or provided; or
  - (c) the nature of the instruction or where or how it is given or provided.
- (5) For the purposes of this Part instruction is paid instruction if payment of money or money’s worth is, or is to be, made for the instruction by or in respect of the person to whom the instruction is given or provided.
- (6) Regulations may prescribe circumstances in which instruction provided free of charge shall be deemed to be given for payment of money by or in respect of the person to whom the instruction is given or provided.
- (7) For the purposes of this Part a person is “registered” if his name is in the register together with—
  - (a) an indication as to whether he is registered in respect of the giving of driving instruction or the carrying on of business in the provision of driving instruction (or both);
  - (b) an indication as to the description of driving instruction in respect of which he is registered; and
  - (c) such other particulars as may be prescribed,and “registration” shall be construed accordingly.
- (8) In this Part “the register” means the register established for the purposes of this Part under Article 51.

#### **Paid driving instruction: offences**

- 49.**—(1) If driving instruction is given in contravention of Article 48(1)(a)—
  - (a) the person by whom it is given;
  - (b) if that person is employed by another to give that instruction, that other (as well as that person); and
  - (c) if that person is a franchisee under a driving instruction franchise, the franchisor under the driving instruction franchise (as well as that person),is guilty of an offence.
- (2) If a person contravenes Article 48(1)(b) he is guilty of an offence.
- (3) In proceedings against a person for an offence under paragraph (1) or (2) it shall be a defence for him to prove that he did not know, and had no reasonable cause to believe, that—

- (a) in a case within sub-paragraph (a) of paragraph (1), or within paragraph (2), he;
- (b) in a case within sub-paragraph (b) of paragraph (1), the person employed by him; or
- (c) in a case within sub-paragraph (c) of that paragraph, the person who was the franchisee under the driving instruction franchise,

was not at the material time registered in respect of the description of driving instruction in question.

- (4) If a person contravenes Article 48(2) he is guilty of an offence.

### **Exemption from prohibitions imposed by Article 48**

**50.**—(1) Regulations may prescribe circumstances in which Article 48 shall not apply in relation to driving instruction, or driving instruction of a prescribed description.

(2) The regulations may, in particular, make provision for Article 48(1)(a) and (2)(a) not to apply in prescribed circumstances for the purpose of enabling persons to acquire experience in giving driving instruction.

## *Registration*

### **Register**

**51.**—(1) Regulations shall make provision for the establishment and maintenance of a register for the purposes of this Part.

(2) An application to be registered in respect of any description of driving instruction must be made to the officer of the Department (in this Part referred to as “the Registrar”) by whom the register is, on behalf of the Department, compiled and maintained.

(3) An application under paragraph (2) shall be made in such manner, and shall be accompanied by such particulars, as the Department may determine.

(4) The Registrar must, on making a decision on an application under paragraph (2), give notice in writing of the decision to the applicant which, in the case of a decision to refuse the application, must state the grounds for the refusal.

(5) Regulations may make provision authorising the Department to make available information about persons registered under this Article.

(6) Paragraphs (2) to (5) and Article 52 do not apply in relation to an application by a person to be registered, or to a person’s registration, as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle in the motor vehicle.

### **Conditions of registration**

**52.**—(1) Where a person duly applies to be registered in respect of a description of driving instruction, the Registrar must register him in respect of that description of driving instruction if he satisfies the Registrar that the conditions prescribed under this paragraph are fulfilled.

(2) In the case of applications by persons to be registered in relation to the giving of a description of driving instruction, those conditions may (in particular) include—

- (a) conditions requiring the persons to have passed such examinations of ability and fitness to give driving instruction of that description as may be prescribed under Article 62;
- (b) conditions requiring the persons to hold, or to have held for a prescribed period, such licences to drive motor vehicles of a prescribed description as may be prescribed; and
- (c) conditions requiring the persons not to have been disqualified during a prescribed period under prescribed provisions for holding or obtaining a licence to drive motor vehicles.

(3) A person may be registered in respect of a description of driving instruction subject to fulfilling the conditions prescribed under this paragraph for so long as he continues to be so registered.

(4) In the case of registration of persons in relation to the giving of a description of driving instruction, those conditions may (in particular) include—

- (a) conditions requiring the persons, if at any time required to do so by the Registrar, to submit themselves for such examinations of continued ability and fitness to give driving instruction of that description as may be prescribed under Article 62;
- (b) conditions requiring the persons to have passed those examinations;
- (c) conditions within paragraph (2)(b) and (c); and
- (d) conditions requiring the persons to follow guidance issued by the Registrar as to the giving of driving instruction of that description.

(5) In the case of the registration of persons in relation to the carrying on of business in the provision of a description of driving instruction, those conditions may (in particular) include—

- (a) conditions requiring the person to secure that motor vehicles and premises used by them in the carrying on of the business meet prescribed standards throughout the period of registration;
- (b) conditions requiring the persons, if at any time required to do so by the Registrar, to allow those motor vehicles and premises to be inspected; and
- (c) conditions requiring the persons to follow guidance issued by the Registrar as to the carrying on of business in the provision of driving instruction of that description.

(6) The conditions prescribed under paragraph (1) or (3) may (in particular) include a condition that persons are fit and proper persons to be, or to continue to be, registered.

(7) Regulations may include provision for persons of a prescribed description to be exempt from any condition, to such extent as is prescribed, in prescribed circumstances.

### **Registration of disabled persons**

**53.**—(1) A person may apply to the Registrar to be registered as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle of a prescribed description in such a motor vehicle if he—

- (a) suffers from a disability or prospective disability affecting the driving of motor vehicles of that description;
- (b) holds a current disabled person's limited driving licence relating to motor vehicles of that description; and
- (c) holds a current emergency control certificate specifying motor vehicles of that description.

(2) An application under paragraph (1) shall be made in such manner, and shall be accompanied by such particulars, as the Department may determine.

(3) If, at the time when he makes an application under paragraph (1), a person is aware—

- (a) that he is suffering from a relevant or prospective disability which he has not previously disclosed to the Department in making an application for his current emergency control certificate; or
- (b) that a relevant or prospective disability from which he has at any time suffered (and which has been previously so disclosed) has become more acute since the granting of his current emergency control certificate,

his application under paragraph (1) must be accompanied by written notification of the nature and extent of his disability.

(4) Any person who fails without reasonable excuse to comply with the requirement imposed by paragraph (3) is guilty of an offence.

(5) Where a person duly applies to be registered as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle of a prescribed description in such a motor vehicle, the Registrar must (subject to Article 54(4)) so register him if he satisfies the Registrar that the conditions prescribed under this paragraph are fulfilled.

(6) Those conditions may (in particular) include—

- (a) conditions requiring the person to have passed such examinations of ability and fitness to give driving instruction of that description as may be prescribed under Article 62;
- (b) conditions requiring the person to hold, or to have held for a prescribed period, such licences to drive motor vehicles of a prescribed description as may be prescribed; and
- (c) conditions requiring the person not to have been disqualified during a prescribed period under prescribed provisions for holding or obtaining a licence to drive motor vehicles.

(7) A person may be so registered subject to fulfilling the conditions prescribed under this paragraph for so long as he continues to be so registered.

(8) Those conditions may (in particular) include—

- (a) conditions requiring the person, if at any time required to do so by the Registrar, to submit himself for such examinations of continued ability and fitness to give driving instruction of that description as may be prescribed under Article 62;
- (b) conditions requiring the person to have passed those examinations;
- (c) conditions requiring the person, if at any time required to do so by the Registrar, to submit himself for a further emergency control assessment on the day (within such period as may be prescribed) and at the place specified by the Registrar;
- (d) conditions within paragraph (6)(b) and (c); and
- (e) conditions requiring the person to follow guidance issued by the Registrar as to the giving of instruction in the driving of a motor vehicle of a prescribed description in such a motor vehicle.

(9) The conditions prescribed under paragraph (5) or (7) may (in particular) include a condition that persons are fit and proper persons to be, or to continue to be, registered.

(10) In considering whether to exercise, in respect of any person, his power under paragraph (8) (c), the Registrar must have regard to any recommendation included in the person's current emergency control certificate as to the period after which he should undergo a further emergency control assessment.

(11) Regulations may include provision for prescribed persons to be exempt from any prescribed condition, to such extent as is prescribed, in prescribed circumstances.

(12) Regulations may make provision authorising the Department to make available information about persons registered under this Article.

(13) In this Part—

“appropriate motor vehicle” means, subject to Article 54(2), a motor vehicle equipped with automatic transmission;

“disability”, in respect of motor vehicles of any description, means a want of physical ability affecting the driving of motor vehicles of that description; and—

- (a) “relevant disability”, in relation to a person, means any disability which is prescribed in regulations or any other disability likely to cause the driving of a motor vehicle of the description in question by him to be a source of danger to the public; and



- (b) “prospective disability”, in relation to a person, means any other disability which, at the material time, is not of such a kind that it is a relevant disability but, by virtue of the intermittent or progressive nature of the disability or otherwise, may become a relevant disability in course of time;

“disabled person’s limited driving licence” means a licence of one of the following kinds, that is to say—

- (a) a licence to drive a motor vehicle granted under Part II of the Order of 1981 (not being a provisional licence within the meaning of Part II of that Order) which is limited, by virtue of a notice served under Article 9(5)(b) of that Order, to an appropriate motor vehicle;
- (b) a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988 (c. 52) (not being a provisional licence within the meaning of Part 3 of that Act) which is limited, by virtue of a notice served under section 92(5)(b) of that Act, to an appropriate motor vehicle; and
- (c) a community licence authorising the driving of a motor vehicle which is similarly limited by virtue of any corresponding provision of the law under which it was issued and a counterpart of that licence;

“emergency control assessment” and “emergency control certificate” mean an assessment and a certificate under Article 65;

“modifications”, in relation to a motor vehicle, includes equipment; and

“registered disabled instructor” means a person registered as a disabled instructor in respect of instruction in the driving of motor vehicles of a prescribed description given in a motor vehicle of that description;

and any reference, in relation to a person, to the class of motor vehicle covered by his disabled person’s limited driving licence is a reference to the class of motor vehicle specified in the notice served on him under Article 9(5)(b) of the Order of 1981 but disregarding any modifications specified in the notice.

### **Provisions supplementary to Article 53**

**54.—**(1) A person who fulfils the conditions mentioned in Article 53(1)(a) and (b) may, for the purposes of obtaining an emergency control certificate, apply to undergo an emergency control assessment.

(2) Regulations may specify modifications of a motor vehicle as modifications which are to be required for a motor vehicle to be an appropriate motor vehicle for the purposes of this Part or as modifications which are not to be required for a motor vehicle to be an appropriate motor vehicle for those purposes.

(3) Regulations may make provision for prescribed persons to be exempt from Article 53(1)(c) in prescribed circumstances.

(4) The Registrar may refuse to register a person under Article 53 if he is satisfied that the person has at any time refused to comply with a requirement under Article 66(2) to submit himself for a further emergency control assessment.

(5) The Registrar must, on making a decision on an application under Article 53, give notice in writing of his decision to the applicant which, in the case of a decision to refuse the application, must state the grounds for the refusal.

**Duration of registration**

**55.**—(1) Unless previously terminated under the provisions of this Part, a person's registration in respect of any description of driving instruction shall (subject to paragraph (3)) be terminated at the end of the period of 4 years beginning with the day specified in paragraph (2).

(2) That day is—

- (a) the first day of the month next after that in which the person became registered in respect of that description of driving instruction; or
- (b) where his registration in respect of that description of driving instruction has been extended under Article 56, the day on which the last further period for which the registration was last extended began.

(3) If an application for the extension of a person's registration in respect of any description of driving instruction is made under Article 56, the registration is not terminated under paragraph (1).

(4) Subject to paragraph (5), where a person whose registration in respect of any description of driving instruction has been terminated under paragraph (1) applies under Article 51 to be registered again in respect of that description of driving instruction, he shall be required again to fulfil such of the conditions prescribed under Article 52(1) as may be prescribed.

(5) If the person mentioned in paragraph (4) was a registered disabled instructor he shall instead be required again to fulfil such of the conditions prescribed under Article 53(5) as may be prescribed.

**Extension of duration of registration**

**56.**—(1) A person may, no later than such time before his registration in respect of any description of driving instruction is terminated under Article 55(1) as is prescribed, apply to the Registrar for the extension of that registration for a further period of 4 years.

(2) An application under paragraph (1) shall be made in such manner, and shall be accompanied by such particulars, as the Department may determine.

(3) On an application under paragraph (1), the applicant shall be entitled to have the registration extended for the further period of 4 years if he satisfies the Registrar that the prescribed requirements are fulfilled.

(4) The continued registration of a person by virtue of an extension under this Article may be subject to—

- (a) in the case of a registered disabled instructor, the conditions prescribed under Article 53(7);
- (b) in any other case, the conditions prescribed under Article 52(3).

(5) The Registrar must, on making a decision to grant or refuse an application under paragraph (1), give notice in writing of the decision to the person, including, where he refuses the application, particulars of the grounds on which he refuses it.

(6) The termination of a person's registration on a decision to refuse such an application shall take effect at the end of the period of 14 days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under Article 59 is previously withdrawn, when the appeal is withdrawn).

(7) But the Registrar may, when giving notice of his decision to refuse the application, direct that the termination of registration shall instead take effect—

- (a) where no appeal under Article 59 is brought against the decision within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn, on the withdrawal of the appeal;
- (c) where such an appeal is brought and is not withdrawn, in accordance with Article 59(4) or any direction under Article 59(5).

### **Termination of registration by Registrar**

**57.**—(1) The Registrar may terminate a person’s registration in respect of any description of driving instruction if he is satisfied that any relevant prescribed condition has not been complied with in the case of the person—

(a) in a case where his registration has not been extended under Article 56, at any time since he became registered; or

(b) in a case where his registration has been so extended, at any time since it was last extended.

(2) For the purposes of paragraph (1) “relevant prescribed condition” means—

(a) in the case of a registered disabled instructor, a condition prescribed under Article 53(7); and

(b) in any other case, a condition prescribed under Article 52(3).

(3) The Registrar may also terminate a person’s registration in respect of a description of driving instruction if the person’s registration, or (if the person’s registration has been extended) the last extension of his registration, was made by mistake or procured by fraud.

(4) The Registrar must, on making a decision to terminate a person’s registration in respect of any description of driving instruction, give notice in writing of the decision to the person together with particulars of the grounds on which he is terminating it.

(5) A decision to terminate a person’s registration in respect of any description of driving instruction shall take effect at the end of the period of 14 days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under Article 59 is previously withdrawn, when the appeal is withdrawn).

(6) But the Registrar may, when giving notice of his decision to terminate a person’s registration in respect of any description of driving instruction, direct that the decision shall instead take effect—

(a) where no appeal under Article 59 is brought against the decision within the time limited for the appeal, on the expiration of that time;

(b) where such an appeal is brought and is withdrawn, on the withdrawal of the appeal;

(c) where such an appeal is brought and is not withdrawn, in accordance with Article 59(4) or any direction under Article 59(5).

### **Power to give direction as to further applications**

**58.**—(1) This Article applies when the Registrar decides—

(a) to refuse to register a person;

(b) to refuse an application for the extension of a person’s registration; or

(c) to terminate a person’s registration,

in respect of any description of driving instruction.

(2) The Registrar may direct that any application by that person to be registered in respect of that description of driving instruction shall not be entertained before the end of such period, not exceeding 4 years beginning with the day on which the decision takes effect, as may be specified in the direction.

(3) Notice of any such direction must be included in the notice of decision in connection with which it is given.

*Appeals***Appeals to the Department**

59.—(1) A person who is aggrieved by a decision of the Registrar—

- (a) to refuse an application—
  - (i) for his registration, or
  - (ii) for the extension of his registration;
- (b) to terminate his registration;
- (c) to give him a direction under Article 58,

may by notice in writing appeal to the Department within the period of 28 days beginning with the day on which notice of the decision was given in accordance with this Part.

(2) On an appeal under paragraph (1) the Department may –

- (a) grant or refuse the application;
- (b) continue or terminate the registration; or
- (c) revoke or confirm the direction or alter the period specified in the direction,

(as the case may be) as it thinks fit.

(3) The Department must, on making a decision under paragraph (2), give notice in writing of the decision to the appellant including—

- (a) where it dismisses the appeal, particulars of the grounds of the decision;
- (b) where it gives a direction under paragraph (6), notice of that direction.

(4) A refusal or termination under paragraph (2)(a) or (b) shall take effect at the end of the period of 14 days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under Article 60 is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).

(5) But the Department may, when giving notice of its decision of a refusal or termination under paragraph (2)(a) or (b), direct that the decision shall instead take effect—

- (a) where no appeal under Article 60 is brought against the decision within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn, on the withdrawal of the appeal;
- (c) where such an appeal is brought and not withdrawn, if and when the appeal is dismissed, and not otherwise.

(6) A refusal or termination under paragraph (2)(a) or (b) may direct that an application by the appellant to be registered shall not be entertained before the expiration of such period, not exceeding 4 years beginning with the day on which the refusal or termination is made, as may be specified in the refusal or termination.

(7) If the Department considers that any evidence adduced on an appeal had not been adduced to the Registrar before he gave the decision to which the appeal relates, it may (instead of making a decision under paragraph (2)) remit the matter to the Registrar for him to reconsider the decision.

(8) A person who is aggrieved by a decision of the Registrar not to give a direction under Article 56(7) or 57(6) may by notice in writing appeal to the Department within the period of 10 days beginning with the day on which notice of the decision is given.

(9) The Department shall determine an appeal under paragraph (8) by either—

- (a) giving the direction concerned; or
- (b) dismissing the appeal,

within 14 days beginning with the day on which notice of the decision is given.

(10) The Department must, on making a decision under paragraph (9), give notice in writing of the decision to the appellant including, where it dismisses the appeal, particulars of the grounds of that dismissal.

(11) Where the Registrar has decided to refuse an application for the extension of a person's registration or to terminate a person's registration but either—

- (a) he gave a direction under Article 56(7) or 57(6); or
- (b) the Department has given such a direction on appeal,

he may by notice in writing apply to the Department for a direction that the decision is to take effect immediately.

(12) The Department shall determine the Registrar's application under paragraph (11) by either granting or refusing the application within 14 days beginning with the day on which notice of the decision is given .

(13) The Department may only grant the application if it considers that a failure to do so might prejudicially affect—

- (a) the well-being of any person to whom the person concerned may give instruction in the driving of a motor vehicle; or
- (b) the safety of road users.

(14) The Department must, on making a decision under paragraph (12), give notice in writing of the decision to the person concerned, including, where it grants the application, particulars of the grounds of that decision.

### **Appeals to court of summary jurisdiction**

**60.**—(1) A person who is aggrieved by a decision of the Department—

- (a) under Article 59(2) to refuse an application for his registration or for the extension of his registration;
- (b) under Article 59(2) to terminate his registration;
- (c) under Article 59(2) to confirm a direction or alter the period specified in a direction under Article 58;
- (d) under Article 59(6) to direct that an application by the appellant to be registered shall not be entertained before the expiration of the period specified in the direction,

may by notice in writing appeal to the court within the period of 28 days beginning with the day on which notice of the decision was given in accordance with Article 59(3).

(2) On an appeal under paragraph (1) the court may make such order—

- (a) for the grant or refusal of the application;
- (b) for the continuation or termination of the registration; or
- (c) for the revocation or confirmation of the direction or the alteration of the period specified in the direction,

(as the case may be) as it thinks fit.

(3) An order for refusal or termination under paragraph (2)(a) or (b) may direct that an application by the appellant to be registered shall not be entertained before the expiration of such period, not exceeding 4 years beginning with the day on which the order is made, as may be specified in the order.

(4) If the court considers that any evidence adduced on an appeal had not been adduced to the Department before it gave the decision to which the appeal relates, it may (instead of making an order under paragraph (2)) remit the matter to the Department for it to reconsider the decision.

(5) A person who is aggrieved by a decision of the Department not to give a direction under Article 59(5) may by notice in writing appeal to the court within the period of 10 days beginning with the day on which notice of the decision is given.

(6) The court shall determine an appeal under paragraph (5) by either–

- (a) giving the direction concerned; or
- (b) dismissing the appeal.

(7) Where the Department has decided to refuse an application for the extension of a person's registration or to terminate a person's registration but either–

- (a) it gave a direction under Article 59(5); or
- (b) the court has given such a direction on appeal,

it may by notice in writing apply to the court for an order that the decision is to take effect immediately.

(8) The court shall determine the Department's application under paragraph (7) by either granting or refusing the application.

(9) The court may only grant the application if it considers that a failure to do so might prejudicially affect–

- (a) the well-being of any person to whom the person concerned may give instruction in the driving of a motor vehicle; or
- (b) the safety of road users.

(10) On an appeal under paragraph (1) or (5) the respondent is the Department.

(11) Except in so far as the procedure for appeals or applications is provided for in this Article, Part VII of the [Magistrates' Courts \(Northern Ireland\) Order 1981 \(NI 26\)](#) shall apply to appeals and applications made under this Article.

(12) In this Article, "the court" means a court of summary jurisdiction acting for the petty sessions district in which the person resides.

### **Regulations in respect of appeals**

**61.** The Department may by regulations make such further provision in respect of appeals or applications under Article 59 or 60 as it considers necessary or expedient.

### *Examinations and training*

#### **Examinations**

**62.**—(1) Regulations may make provision with respect to–

- (a) the nature of examinations of the fitness and ability (or continued fitness and ability) to give driving instruction (which may consist of practical tests and other tests and means of assessment) and the administrative arrangements for submitting for such examinations;
- (b) the qualification, selection and appointment of persons by whom they may be conducted, conditions which must be satisfied during the currency of an appointment, the charging of reasonable fees in respect of applications for appointment or appointments or in connection with any examination or assessment which may be required before appointment or during the currency of any appointment and the revocation of any appointment;

(c) evidence of the results of such examinations; and  
(d) the making available of information about the results of such examinations,  
and generally with respect to such examinations.

(2) In particular, the regulations may make provision—

- (a) for requiring a person submitting himself for any part of an examination which consists of practical tests, to provide a safe and suitable vehicle for the purposes of the practical tests and for requiring that, if the vehicle is a vehicle of a prescribed description, the vehicle has been certified in the prescribed manner after a prescribed inspection as satisfying such requirements as may be prescribed;
- (b) for the charging (whether on the making by a person of arrangements to submit himself for any part of an examination or otherwise) of reasonable fees for or in connection with the examination, or any part of it, and any inspection and certification of a vehicle required by regulations under sub-paragraph (a) in relation to any part of the examination;
- (c) for requiring a person who desires to submit himself, or is required to submit himself, for an examination, or any part of it, to supply the Registrar with such particulars as the Department may determine; and
- (d) for ensuring that a person submitting himself for an examination, or any part of it, and failing to pass it shall not be eligible to submit himself for another examination, or any part of it, by the same or any other person before the end of a prescribed period, unless in accordance with the power conferred on the Department by Article 63.

#### **Review of examinations etc.**

**63.**—(1) On the application of a person who has undergone a relevant instructor examination, or a part of a relevant instructor examination, the Department may determine whether the examination, or the part of the examination, was properly conducted.

(2) In this Part “relevant instructor examination” means—

- (a) an examination of ability and fitness referred to in Article 52(2)(a) or 53(6)(a);
- (b) an examination of continued ability and fitness referred to in Article 52(4)(a) or 53(8)(a);  
or
- (c) an emergency control assessment under Article 65.

(3) If it appears to the Department that it was not properly conducted, the Department may—

- (a) (except in the case of an emergency control assessment) Order that the applicant shall be eligible to submit himself for another examination before the end of the period prescribed under Article 62; and
- (b) (in any case) Order that any fee payable by the applicant in respect of the examination shall not be paid, or, if it has been paid, shall be repaid.

#### **Training**

**64.**—(1) Regulations may provide that a person—

- (a) shall not be permitted to take any part of a relevant instructor examination;
- (b) shall not be registered; or
- (c) shall not have his registration extended,

unless he has successfully completed training in accordance with the regulations.

(2) Regulations may make provision in relation to training—

- (a) by means of courses provided in accordance with the regulations;
  - (b) by means of study conducted in accordance with the regulations; and
  - (c) by any other prescribed means.
- (3) Regulations under this Article may include provision exempting persons from any requirement imposed by virtue of paragraph (1); and regulations including such provision may (in particular)–
- (a) limit an exemption to persons in prescribed circumstances;
  - (b) attach conditions to an exemption;
  - (c) regulate applications for an exemption; and
  - (d) include provision for the evidencing by a person of his being within an exemption.
- (4) Regulations under this Article may provide that training is not to be taken into account for the purposes of the regulations if it was completed before such time as is prescribed.
- (5) Regulations under this Article may, in particular, include–
- (a) provision about the nature of training;
  - (b) provision for the approval by the Department of persons providing training or giving instruction as part of training and the withdrawal of approval (including provision for appeals to a court of summary jurisdiction acting for the petty sessions district in which the person resides against refusal and withdrawal of approval) and provision for exemptions from any requirement of approval;
  - (c) provision for the training or assessment, or the supervision of training or assessment, of persons providing training or giving instruction as part of training;
  - (d) provision for the evidencing of the successful completion of training; and
  - (e) provision authorising the Department to make available information about persons providing training or giving instruction as part of training.
- (6) Regulations under this Article may include provision for the charging of reasonable fees in respect of the exercise of any function conferred or imposed on the Department by the regulations.

*Disabled persons: emergency control certificates, etc.*

#### **Assessment of disabled person's ability to control a motor vehicle in an emergency**

- 65.**—(1) This Article applies to any person who, by or under any provision of this Part–
- (a) is authorised to apply to undergo an emergency control assessment; or
  - (b) is required by the Registrar to submit himself for an emergency control assessment.
- (2) An emergency control assessment is an assessment of whether the person being assessed would be able either–
- (a) to take control of a motor vehicle of a class covered by his disabled person's limited driving licence without any modifications; or
  - (b) to take control of a motor vehicle of a class covered by his disabled person's limited driving licence only with appropriate modifications of such a motor vehicle;
- if an emergency arose while he was giving, in such a motor vehicle, instruction in the driving of an appropriate motor vehicle.
- (3) Where a person is authorised to apply to undergo an emergency control assessment, for his application to be duly made, it must be made to the Department and must include–



- (a) a declaration by the person making the application, in such form as the Department may require, stating every relevant disability or prospective disability from which the person is suffering or has at any time (or, if a period is prescribed by regulations, has during that period) suffered; and
- (b) such other particulars as the Department may require.

(4) Where a person is required to submit himself for an emergency control assessment he must furnish to the Department such particulars as the Department may require.

(5) Regulations may require a person who applies to undergo an emergency control assessment (or a part of such an assessment), or is required to submit himself for such an assessment, to pay a fee to the Department, or such other person as the Department may specify, in respect of that assessment.

(6) An emergency control assessment—

- (a) shall be conducted by a person appointed by the Department (in this Article referred to as “the assessor”); and
- (b) shall consist of such practical tests and other means of assessment as the Department may determine.

(7) On completing an emergency control assessment of a person, the assessor shall grant him an emergency control certificate if he is satisfied either—

- (a) that, in the circumstances mentioned in paragraph (2), that person would be able to take control of a motor vehicle of a class covered by his disabled person’s limited driving licence without any modifications; or
- (b) that, in the circumstances mentioned in paragraph (2), that person would be able to take control of a motor vehicle of a class covered by his disabled person’s limited driving licence only with appropriate modifications of such a motor vehicle,

but if the assessor is not so satisfied, he shall refuse to grant a certificate to that person.

(8) An emergency control certificate granted to any person—

- (a) shall specify the class of motor vehicle covered by his disabled person’s limited driving licence in relation to which the assessor is satisfied as mentioned in paragraph (7)(a) or (b), specifying, in a case falling within sub-paragraph (b) the modifications that are appropriate; and
- (b) may include a recommendation that the person should undergo a further emergency control assessment after the end of such period as is specified in the certificate,

and shall otherwise be in such form as the Department may determine.

(9) Different modifications for different classes of motor vehicle may be specified under paragraph (8)(a).

(10) The assessor who has assessed any person under this Article—

- (a) if he grants an emergency control certificate, shall—
  - (i) give or send the certificate to that person; and
  - (ii) send a copy of the certificate to the Registrar; and
- (b) if he refuses to grant such a certificate, shall—
  - (i) give notice in writing to that person of his decision and of the reasons for it; and
  - (ii) send a copy of the notice to the Registrar.

### **Further assessments**

**66.**—(1) A person who has undergone an emergency control assessment may not apply to undergo a further assessment until after the end of—

- (a) the period of 6 months beginning with the date of his most recent previous assessment; or
- (b) such other period as may be prescribed by regulations,

unless, by virtue of Article 53(8)(c) or paragraph (2), he is required by the Registrar to submit himself for a further assessment.

(2) A person who is not registered but who holds a current emergency control certificate shall, if at any time required to do so by the Registrar, submit himself for a further emergency control assessment on the day (within such period as may be prescribed by regulations) and at the place specified by the Registrar.

(3) In considering whether to exercise, in respect of any person, his power under paragraph (2), the Registrar shall have regard to any recommendation included in that person's current emergency control certificate as to the period after the end of which he should undergo a further emergency control assessment.

(4) A person who—

- (a) holds a current emergency control certificate; but
- (b) wishes to undergo a further emergency control assessment with a view to establishing his ability to control any class of motor vehicle not specified in his current certificate,

may, with the consent of the Registrar and subject to paragraph (1), apply to undergo a further assessment; but a person applying to undergo a further assessment under this paragraph shall not be required to make the declaration required by Article 65(3)(a).

(5) An application made under paragraph (4) for the consent of the Registrar shall be made in such manner and be accompanied by such particulars as the Registrar may require.

(6) If, as a result of undergoing a further emergency control assessment, a person is granted a fresh emergency control certificate the grant of that certificate shall, with effect from the date on which it is notified as taking effect, revoke the previous certificate.

(7) If, in the case of an emergency control assessment conducted in respect of a person who holds a current emergency control certificate, the assessor is not satisfied as to either of the matters specified in sub-paragraphs (a) and (b) of Article 65(7), he shall revoke the certificate.

(8) Where a person's emergency control certificate is revoked under paragraph (7) the assessor shall—

- (a) serve notice in writing on him specifying—
  - (i) the grounds for the revocation; and
  - (ii) the date, not being earlier than the date of service of the notice, on which the revocation is to take effect; and
- (b) send a copy of the notice to the Registrar.

(9) In this Article “assessor” has the same meaning as in Article 65.

#### **Duty to disclose further disability**

67.—(1) If at any time a registered disabled instructor becomes aware—

- (a) that he is suffering from a relevant or prospective disability which he has not previously disclosed to the Department under Article 53(3) or Article 65(3) or (4); or
- (b) that a relevant or prospective disability from which he has at any time suffered (and which has been previously so disclosed) has become more acute since his current emergency control certificate was granted,

he must forthwith notify the Registrar in writing of the nature and extent of his disability.

(2) Paragraph (1) does not require a person to notify the Registrar if—

- (a) the disability is one from which he has not previously suffered; and
  - (b) he has reasonable grounds for believing that the duration of the disability will not extend beyond the period of 3 months beginning with the date on which he first becomes aware that he suffers from it.
- (3) A person who fails without reasonable excuse to notify the Registrar as required by paragraph (1) is guilty of an offence.

### **Offences relating to giving by disabled person of paid driving instruction**

**68.**—(1) No registered disabled instructor shall give paid instruction in the driving of a motor vehicle unless he is the holder of a current emergency control certificate.

(2) No registered disabled instructor shall give, in any unauthorised motor vehicle, paid instruction in the driving of a motor vehicle.

(3) Where a registered disabled instructor gives instruction in contravention of this Article—

- (a) the instructor;
- (b) if the instructor is employed by another person to give that instruction, that other person (as well as the instructor); and
- (c) if the instructor is a franchisee under a driving instruction franchise, the franchisor (as well as the instructor),

is guilty of an offence.

(4) In paragraph (2) “unauthorised motor vehicle”, in relation to any person, means a motor vehicle other than one which falls within the class of motor vehicle specified in his current emergency control certificate and, where modifications are specified in that certificate, is modified in accordance with the specification.

### *General and supplemental*

### **Power to alter registration period**

**69.**—(1) Regulations may alter—

- (a) the period at the end of which a person’s registration is terminated (unless extended or further extended);
- (b) the period for which a person’s registration may be extended or further extended; and
- (c) the period before the end of which it may be directed that any application by a person to be registered shall not be entertained.

(2) Regulations under this Article may amend this Part.

### **Evidence of registration**

**70.**—(1) Regulations may prescribe—

- (a) certificates or other items that may be issued to registered persons to be displayed as evidence of their registration; and
- (b) a title or other description which may be used as such evidence.

(2) If at any time a person who is not registered—

- (a) displays a certificate or other item prescribed under paragraph (1);
- (b) uses a title or other description prescribed under paragraph (1)(b); or

(c) uses a title or other description implying that he is registered,  
he is guilty of an offence unless he proves that he did not know, and did not have reasonable cause to believe, that he was not registered at that time.

(3) If a person carrying on business in the provision of driving instruction at any time—

- (a) uses a title or other description prescribed under paragraph (1)(b) in relation to any relevant person who is not appropriately registered; or
- (b) issues any advertisement or invitation calculated to mislead with respect to the extent to which relevant persons are appropriately registered,

he is guilty of an offence unless he proves that he did not know, and did not have reasonable cause to believe, that the relevant person was, or relevant persons were, not appropriately registered at that time.

(4) For the purposes of paragraph (3)—

- (a) a relevant person is a person who is employed by the person carrying on business to give driving instruction, or is a franchisee giving driving instruction under a driving instruction franchise under which that person is the franchisor; and
- (b) a relevant person is appropriately registered if he is registered in respect of the giving of the description of driving instruction which he is employed to give or which is given to him under the driving instruction franchise.

#### **Surrender of certificates etc.**

**71.** Where the registration of a person to whom a certificate or other item prescribed under Article 70(1)(a) has been issued is terminated, that person must, if so required by the Registrar by notice in writing, surrender the certificate or other item to the Registrar within the period of 14 days beginning with the day on which the notice is given and, if he fails to do so, he is guilty of an offence.

#### **Production of certificates etc. to constables and authorised persons**

**72.—(1)** A person to whom a certificate or other item prescribed under Article 70 is issued must, on being so required by a constable or any person authorised in writing by the Department in that behalf, produce the certificate or other item for examination.

(2) Where—

- (a) a person's registration is terminated; and
- (b) he fails to satisfy an obligation imposed on him by Article 71,

a constable or a person authorised in writing by the Department in that behalf may require him to produce any such certificate or other item issued to him, and upon its being produced may seize it and deliver it to the Registrar.

(3) A person who is required under paragraph (1) or (2) to produce a certificate or other item and fails to do so is, subject to paragraph (4), guilty of an offence.

(4) In proceedings against any person for an offence under paragraph (3), it shall be a defence for him to show that—

- (a) within 7 days beginning with the day following that on which the production of the certificate or other item was so required, it was produced—
  - (i) where the requirement was made by a constable, at a police station specified at the time the production was required by the person required to produce the certificate or other item;

- (ii) where the requirement was made by a person other than a constable, at a place specified at that time by that person; or
- (b) the certificate or other item was produced at that police station or, as the case may be, place as soon as was reasonably practicable; or
- (c) it was not reasonably practicable for it to be produced at that police station or, as the case may be, place before the day on which the proceedings were commenced,

and for the purposes of this paragraph the service of a summons on the accused shall be treated as the commencement of the proceedings.

### **Offences by corporations**

73. Section 20(2) and (3) of the Interpretation Act (Northern Ireland) 1954 (c. 33) (offences by corporations) shall apply to this Part as if the requirement for consent in subsection (3) were omitted.

### **Service of notices**

74. For the purposes of section 24 of the Interpretation Act (Northern Ireland) 1954 (c. 33) (service of documents) a person's usual or last known place of abode or business shall be, in the case of a person whose name is included in the register, his address on the register.

### **Fees**

75.—(1) Regulations may make provision for the payment of such fees (if any) as may be prescribed in connection with registration or extension of registration.

(2) Regulations may make provision for the repayment (in whole or in part) of any fee payable by virtue of any provision of this Part in such circumstances as may be prescribed.

### **Regulations**

76. Regulations under any provision of this Part—

- (a) shall be subject to negative resolution;
- (b) may make incidental, supplementary, consequential or transitional provision or savings.

### **Application to Crown**

77.—(1) Subject to paragraph (2), the provisions of this Part apply to vehicles and persons in the public service of the Crown.

(2) The Department may make regulations exempting from the provisions of this Part, or of any regulation made under this Part, vehicles and persons in the public service of the Crown.

### **Offences**

78. The entries set out in Schedule 6 relating to offences under this Part shall be added at the end of Part I of Schedule 1 to the Offenders Order.

## PART VI

### MISCELLANEOUS

#### **Removal of requirement for Department of Finance and Personnel to approve certain matters relating to charging of fees by Department**

**79.**—(1) The statutory provisions listed in paragraphs (2) and (3) (which require the Department of Finance and Personnel to approve certain matters relating to the charging of fees by the Department) shall cease to have effect.

(2) In the Transport Act (Northern Ireland) 1967 (c. 37)—

- (a) in section 9(1) (fees for road service licences) the words “, with the approval of the Ministry of Finance,”;
- (b) in section 16(2) (fees for operators' licences) the words “with the approval of the Ministry of Finance”;
- (c) in section 23(2) (fees for vehicle licences) the words “with the approval of the Ministry of Finance”;
- (d) in section 25, (fees for vehicle licences for farmers and milk hauliers) in subsections (2) and (4) the words “with the approval of the Ministry of Finance”.

(3) In the Order of 1981—

- (a) Article 19C(3) (fees under regulations);
- (b) in Article 66(1)(a) (fees for licences for public service vehicles) the words “, subject to the approval of the Department of Finance,”;
- (c) in Article 79A(2) (fees for taxi drivers' licences) the words “with the approval of the Department of Finance and Personnel”;
- (d) in Article 80 (repayment of fees) the words “, with the approval of the Department of Finance,”;
- (e) in Article 132(2)(a) (fees to be paid for registration as approved driving instructor) the words “, with the approval of the Department of Finance,”;
- (f) in Article 132(2)(d) (fees to be paid for application for examination as approved driving instructor) the words “with the approval of the Department of Finance”;
- (g) in Article 135(2)(a) (fees to be paid for approved driving instructor licence) the words “, with the approval of the Department of Finance,”.

#### **Funding for automatic number plate recognition**

**80.**—(1) The Secretary of State may make payments in respect of the whole or any part of the expenditure of a public authority in relation to—

- (a) the prevention or detection of offences to which paragraph (2) applies; or
- (b) any enforcement action or proceedings in respect of such offences or any alleged such offences.

(2) This paragraph applies to offences committed under the following provisions—

*The Vehicle Excise and Registration Act 1994 (c. 22)*

- section 33 (not exhibiting vehicle licence);
- section 42 (not fixing registration mark);
- section 43 (obscured registration mark);

section 43C (using an incorrectly registered vehicle);

section 59 (regulations: offences) in relation to the requirements imposed by regulation 11 of the Road Vehicles (Display of Registration Marks) Regulations 2001 ([SI 2001/561](#));

*The Road Traffic (Northern Ireland) Order 1981 (NI 1)*

Article 3(1) (drivers of motor vehicles to have driving licences);

Article 90 (users of motor vehicles to be insured or secured against third-party risks);

Article 177 (identification of drivers or owners of, and passengers in, vehicles);

Article 180(1) (power of constable in uniform to stop vehicles);

*The Road Traffic (Northern Ireland) Order 1995 (NI 18)*

Article 23 (requirements regarding seat belts: adults);

Article 24(2) and (5) (restriction on carrying children not wearing seat belts in motor vehicles);

Article 58 (motor vehicles and trailers: other construction and use requirements) in relation to the construction and use requirements imposed by the following regulations—

(a) The Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999 ([SR 1999/454](#))

(b) The Road Vehicle Lighting Regulations (Northern Ireland) 2000 ([SR 2000/169](#));

Article 63 (obligatory test certificates for motor vehicles).

(3) Payments under this Article shall be made at such times, in such manner and subject to such conditions as the Secretary of State may determine.

(4) The Secretary of State may by order amend paragraph (2) by making additions to or deletions from the list of offences for the time being set out there.

(5) An order made under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

(6) In paragraph (2) “construction and use requirements” has the meaning given by Article 53 of the Order of 1995.

(7) In this Article “public authority” means—

(a) the Policing Board;

(b) a Northern Ireland department;

(c) any other body which exercises functions of a public nature.

### **Disclosure of information about insurance status of vehicles**

**81.**—(1) The Department may by regulations make provision for and in connection with requiring MIIC to make available relevant vehicle insurance information to the Police Service of Northern Ireland for it to process with a view to making the processed information available for use by constables.

(2) “Relevant vehicle insurance information” means information relating to vehicles the use of which has been (but no longer is) insured under a policy of insurance, or security in respect of third party risks, complying with the requirements of Part VIII of the Order of 1981.

(3) The regulations may in particular—

(a) require all relevant vehicle insurance information or any particular description of such information to be made available to the Police Service of Northern Ireland;

- (b) determine the purposes for which information processed from such information by the Police Service of Northern Ireland may be made available for use by constables; and
  - (c) determine the circumstances in which any of the processed information which has been made available for use by constables may be further disclosed by them.
- (4) Regulations made under this Article shall be subject to negative resolution.
- (5) In this Article—
- “information” means information held in any form;
  - “MIIC” means the Motor Insurers' Information Centre (a company limited by guarantee and incorporated under the Companies Act 1985 (c. 6) on 8th December 1998).

### **Departments' functions as to road safety**

**82.**—(1) Article 52 of the Order of 1995 (powers of Department as to giving road safety information and training) is amended as follows—

- (a) in paragraph (3)(b), omit the words from “the construction, improvement, maintenance or repair of roads” to the end;
  - (b) omit paragraph (3)(c);
  - (c) after paragraph (3) insert—
    - “(4) The Department may give, or make arrangements for the giving of, training on road safety to road users, or any class or description of road users, on payment of a fee.
    - (5) The Department may by regulations, in respect of any fees that may be charged under paragraph (4)—
      - (a) make provision for the payment of fees of such amounts as are prescribed by the regulations;
      - (b) specify the maximum fees that a person may be required to pay;
      - (c) specify the persons to whom such fees are payable;
      - (d) provide for the times at which, and method by which, fees are payable.”.
- (2) After that Article insert—

### **“Functions of Department for Regional Development as to road safety**

**52A.**—(1) The Department for Regional Development (in this Article “the Department”) must prepare and carry out a programme of measures designed to improve road safety.

(2) The Department may, with the approval of the Department of Finance and Personnel, make contributions towards the cost of measures for promoting road safety which are taken by any authority, body or person.

(3) Without prejudice to the generality of paragraph (1), in pursuance of its duty under that paragraph, the Department—

- (a) must carry out studies into accidents arising out of the use of vehicles on roads or parts of roads;
- (b) must, in the light of those studies, take such measures as appear to the Department to be appropriate to prevent such accidents, including the construction, improvement, maintenance or repair of roads which are maintainable by the Department, and other measures taken in the exercise of the Department’s powers for controlling, protecting or assisting the movement of traffic on roads;



- (c) in constructing new roads, must take such measures as appear to the Department to be appropriate to reduce the possibilities of such accidents when the roads come into use.”.

#### **Regulations prohibiting the grant of excise licences unless evidence of insurance or security**

**83.** After Article 97 of the Order of 1981 (requirements as to production of certificate of insurance or of security) insert—

##### **“Regulations prohibiting the grant of excise licences unless evidence of insurance or security**

**97A.** The Department may by regulations provide that where an application is made in Northern Ireland for a licence under the Vehicle Excise and Registration Act 1994 the licence shall not be granted unless the applicant produces such evidence as may be prescribed that either—

- (a) on the date when the licence comes into operation there will be in force the necessary policy of insurance or the necessary security in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission; or
- (b) the vehicle is a vehicle to which Article 90 does not apply at a time when it is being driven by the owner or by a servant of the owner in the course of his employment, or is otherwise subject to the control of the owner.”.

#### **Alteration of penalties**

**84.** Any provision of this Order which alters any penalty for an offence has effect only in relation to offences committed after the coming into operation of the provision.

#### **Power to make consequential provisions**

**85.—(1)** The Department may by order subject to negative resolution make such amendments (including repeals and revocations) as may appear appropriate in consequence of any provision contained in this Order in any Northern Ireland legislation passed or made before the provision comes into operation.

- (2) An order under paragraph (1) may include any appropriate transitional provisions or savings.

#### **Amendments and repeals**

**86.—(1)** Schedule 7 (which contains minor and consequential amendments) shall have effect.

- (2) The statutory provisions specified in Schedule 8 are repealed to the extent specified.

*Christine Cook*  
Deputy Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 13

#### PROHIBITION ON DRIVING: IMMOBILISATION, REMOVAL AND DISPOSAL OF VEHICLES

##### *Cases to which regulations may apply*

- 1.—(1) The Department may make regulations with respect to any case where, on or after such date as may be prescribed, the driving of a vehicle has been prohibited under—
- (a) Article 84 of the Order of 1981 (foreign vehicles);
  - (b) Article 77 or 79 of the Order of 1995 (unfit or overloaded vehicles); or
  - (c) Article 91E of the Offenders Order (failure to make payment of financial penalty deposit);
- (2) Regulations under this Schedule are subject to negative resolution.

##### *Immobilisation*

- 2.—(1) The regulations may provide that an authorised person or a person acting under his direction may—
- (a) fix an immobilisation device to the vehicle, and
  - (b) move the vehicle, or direct it to be moved, for the purpose of enabling an immobilisation device to be fitted it.
- (2) The regulations may provide that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations the person fixing the device must also fix to the vehicle a notice—
- (a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device,
  - (b) specifying the steps to be taken to secure its release, and
  - (c) giving such other information as may be prescribed.
- (3) The regulations may provide that a vehicle to which an immobilisation device has been fixed in accordance with the regulations—
- (a) may only be released from the device by or under the direction of an authorised person, but
  - (b) subject to that, must be released from the device if the first and second requirements specified below are met.
- (4) The first requirement is that such charge in respect of the release as may be prescribed is paid in any manner specified in the immobilisation notice.
- (5) The second requirement is that, in accordance with instructions specified in the immobilisation notice, there is produced such evidence as may be prescribed establishing that the prohibition has been removed.
- (6) The regulations may provide that they do not apply in relation to a vehicle if—

- (a) a current disabled person's badge is displayed on the vehicle, or
- (b) such other conditions as may be prescribed are fulfilled,

and "disabled person's badge" means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 44) or a recognised badge within the meaning given by section 14A of that Act.

(7) The regulations may provide that an immobilisation notice is not to be removed or interfered with except by or on the authority of a person falling within a prescribed description.

*Offences connected with immobilisation, etc.*

3.—(1) The regulations may provide that a person who fails to comply within a reasonable time with a direction under provision made under paragraph 2(1)(b) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) The regulations may provide that a person contravening provision made under paragraph 2(7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) The regulations may provide that a person who, without being authorised to do so in accordance with provision made under paragraph 2, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) The regulations may provide that where they would otherwise have applied in relation to a vehicle but for provision made under paragraph 2(6)(a) and the vehicle was not, at the time at which they would otherwise have applied, being used—

- (a) in accordance with regulations under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 44), and
- (b) in circumstances falling within section 14B(1)(b) of that Act (use where a disabled person's concession would be available),

the person in charge of the vehicle at that time is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) The regulations may provide that where—

- (a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations,
- (b) the declaration is that the prohibition has been removed, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

(6) The regulations may provide that a person guilty of an offence for which provision is made under sub-paragraph (5) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

*Removal and disposal of vehicles*

4.—(1) The regulations may provide that where such conditions as may be prescribed are fulfilled an authorised person, or a person acting under his direction, may remove the vehicle or direct it to be removed.

(2) The regulations may provide that where such conditions as may be prescribed are fulfilled an authorised person, or a person acting under his direction, may deliver the vehicle, or direct it to be delivered, into the custody of a person—

- (a) who is identified in accordance with prescribed rules, and
- (b) who agrees to accept delivery in accordance with arrangements agreed between that person and the Department,

and the arrangements may include provision as to the payment of a sum to the person into whose custody the vehicle is delivered.

(3) The regulations may make provision for such persons as may be prescribed to be informed that a vehicle has been removed and delivered into a person's custody and may, in particular, include provision requiring—

- (a) the publication by an authorised person of such notices as may be prescribed, and
- (b) the giving of notice by an authorised person to such persons as may be prescribed.

(4) The regulations may provide that the person into whose custody the vehicle is delivered may dispose of it, and may in particular make provision as to—

- (a) the time at which the vehicle may be disposed of, and
- (b) the manner in which it may be disposed of.

(5) The regulations may make provision allowing a person to take possession of the vehicle if—

- (a) he claims it before it is disposed of, and
- (b) any prescribed conditions are fulfilled.

(6) The regulations may provide for a sum of an amount arrived at under prescribed rules to be paid to a person if—

- (a) he claims after the vehicle's disposal to be or to have been its owner or to have been the person in charge of the vehicle when it was removed,
- (b) the claim is made within a prescribed time of the disposal, and
- (c) any other prescribed conditions are fulfilled.

(7) The regulations may provide that (whether or not a claim is made under provision made under sub-paragraph (5) or (6))—

- (a) the Department, or
- (b) a person into whose custody the vehicle is delivered under the regulations,

may recover from the vehicle's owner or the person in charge of the vehicle such charges as may be prescribed in respect of all or any of its release, removal, custody and disposal.

(8) In sub-paragraph (7) "person in charge" and "owner", in relation to a vehicle, means the person who was in charge of the vehicle or was the vehicle's owner when it was removed.

(9) The conditions prescribed under sub-paragraph (5) may include conditions as to—

- (a) satisfying the person with custody that the claimant is the vehicle's owner or was the person in charge of the vehicle when it was removed,
- (b) the payment of prescribed charges in respect of the vehicle's release, removal and custody, and

- (c) the production of such evidence as may be prescribed establishing that the prohibition has been removed.

(10) The regulations may in particular include provision for purposes corresponding to those of Articles 51 to 54 of the [Road Traffic Regulation \(Northern Ireland\) Order 1997 \(NI 2\)](#) (disposal and charges) subject to such additions, omissions or other modifications as the Department thinks fit.

#### *Offences as to securing possession of vehicles*

**5.—(1)** The regulations may provide that a person who fails to comply within a reasonable time with a direction under provision made under subparagraph (1) or (2) of paragraph 4 is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) The regulations may provide that where—

- (a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of a person in accordance with provision made under paragraph 4,
- (b) the declaration is that the prohibition has been removed, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

(3) The regulations may provide that a person guilty of an offence for which provision is made under sub-paragraph (2) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

#### *Disputes*

**6.** The regulations may make provision about the proceedings to be followed where a dispute occurs as a result of the regulations, and may in particular make provision—

- (a) for an application to be made to a court of summary jurisdiction, or
- (b) for a court to order a sum to be paid by the Department.

#### *Authorised persons*

**7.** As regards anything falling to be done under the regulations (such as receiving payment of a charge or other sum) the regulations may provide that it may be done—

- (a) by an authorised person, or
- (b) by an authorised person or a person acting under his direction.

#### *Application of Offenders Order*

**8.** The regulations may make provision for the application of any or all of Articles 5, 10, 14 and 15(1) of the Offenders Order to an offence for which provision is made by the regulations.

#### *Interpretation*

**9.** References in this Schedule to a vehicle include references to any trailer drawn by the vehicle.

**10.—(1)** This paragraph makes provision about the meaning of “authorised person” for the purposes of this Schedule.

(2) Where the driving of the vehicle has been prohibited under Article 84 of the Order of 1981 “authorised person” means an authorised officer within the meaning of Part VII of the Order of 1981.

(3) Where the driving of the vehicle has been prohibited under Article 77 of the Order of 1995 “authorised person” means a vehicle examiner (within the meaning of Part III of that Order).

(4) Where the driving of the vehicle has been prohibited under Article 79 of the Order of 1995 “authorised person” means—

- (a) a vehicle examiner (within the meaning of Part III of that Order); or
- (b) a constable authorised to act for the purposes of paragraph (1) of that Order by or on behalf of the Chief Constable.

(5) Where the driving of the vehicle has been prohibited under Article 91E of the Offenders Order, “authorised person” means—

- (a) a vehicle examiner (within the meaning of Part III of that Order); or
- (b) a constable.

**11.** In this Schedule—

- (a) references to an immobilisation device are to a device or appliance which is—
  - (i) designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion; and
  - (ii) of a type approved by the Department for use for that purpose; and
- (b) references to an immobilisation notice are to a notice fixed to a vehicle in accordance with the regulations.

**12.** In this Schedule “prescribed” means prescribed by the regulations.

**13.—(1)** The regulations may make provision as to the meaning for the purposes of the regulations of “owner” as regards a vehicle.

(2) In particular, the regulations may provide that for the purposes of the regulations the owner of a vehicle is taken to be the person in whose name it is then registered under the Vehicle Excise and Registration Act 1994 (c. 22).

## SCHEDULE 2

Article 16

### GIVING OF FIXED PENALTY NOTICES BY VEHICLE EXAMINERS ETC.

#### *The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10)*

1. Part IV of the Offenders Order (fixed penalties) is amended as follows.
2. In Article 55(1) (interpretation), after the definition of “proceedings” insert—
 

““vehicle examiner” means an examiner appointed under Article 74 of the Order of 1995.”.
3. In Article 58(3)(c) (fixed penalty notice must state to whom and where fixed penalty may be paid) for “the clerk of petty sessions” substitute “the person to”.
4. In Article 60 (notices on-the-spot or at a police station)—
  - (a) in the heading, for “or at a police station” substitute “etc.”;

- (b) in paragraph (1), after “uniform” insert “, or a vehicle examiner who produces his authority.”;
  - (c) in paragraph (2), after “constable” insert “or vehicle examiner”;
  - (d) in paragraph (3), after “constable” in each place, insert “or vehicle examiner”;
  - (e) in paragraph (4)–
    - (i) after “constable” in the first 3 places, insert “or vehicle examiner”;
    - (ii) for “, within 7 days after the notice is given, he produces” substitute “he delivers”; and
    - (iii) for the words from “person to” to “person concerned)” substitute “accordance with paragraph (4A)”;
  - (f) after that paragraph insert–
    - “(4A) Delivery must–
      - (a) if the notice is given by a constable, be made in person, within 7 days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or
      - (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within 14 days after the notice is given, to the Department at the place specified in the notice.”;
  - (g) in paragraph (5)–
    - (i) for “produces” substitute “delivers”;
    - (ii) for the words from “person to a” to “to him” substitute “accordance with paragraph (4A)”;
    - (iii) in sub-paragraph (a) and in the words following sub-paragraph (b), for “constable or authorised person” substitute “person to whom the notice under paragraph (4) is delivered”;
    - (iv) omit “he surrenders”; and
    - (v) for “to the constable or authorised person” substitute “are delivered”;
  - (h) in paragraph (7)–
    - (i) after “surrendered” insert “or delivered”; and
    - (ii) insert at the end “if the fixed penalty notice was given by a constable or authorised person”.
- 5. In Article 62 (licence receipts)–**
- (a) in paragraph (1)–
    - (i) for “constable or authorised person” substitute “person”; and
    - (ii) after “surrenders” insert “or delivers”;
  - (b) in paragraph (2)–
    - (i) for “The” substitute “Where the duty in Article 60(7) applies, the”; and
    - (ii) after “surrendered” insert “or delivered”;
  - (c) in paragraph (3)–
    - (i) for “by a constable or authorised person” substitute “under paragraph (1)”;
    - (ii) for “by the fixed penalty clerk” substitute “under paragraph (2)”.

- 6.** In Article 63 (endorsement of licences without hearings)–
- (a) in paragraph (1), for the words from “has surrendered” to “Article 60”, substitute “has been given a fixed penalty notice under Article 60 in respect of an offence involving obligatory endorsement,”;
  - (b) in paragraph (3), for “fixed penalty clerk” substitute “person to whom it is paid”;
  - (c) in paragraph (4) for “fixed penalty clerk” substitute “person to whom the fixed penalty is required to be paid”;
  - (d) in paragraph (6)–
    - (i) for “On endorsing” substitute “Where the endorsement of”; and
    - (ii) after “Article” insert “is made by the fixed penalty clerk”.
- 7.** In Article 66 (fixed penalty notice mistakenly given: exclusion of fixed penalty procedures)–
- (a) in paragraph (1)–
    - (i) for “sent to him under Article 60(7)” substitute “surrendered or delivered under Article 60”; and
    - (ii) after “clerk” insert “or the Department”;
  - (b) in paragraph (2)–
    - (i) omit “fixed penalty clerk must not endorse the”;
    - (ii) before “under” insert “must not be endorsed”; and
    - (iii) after “but” insert “if it was sent to the fixed penalty clerk he”.
- 8.** In Article 67(1) (fixing notices to vehicles), after “constable” insert “or a vehicle examiner”.
- 9.** In Article 68 (service of notice to owner if penalty not paid)–
- (a) in paragraph (2), for “Chief Constable” substitute “relevant person”;
  - (b) after that paragraph insert–
    - “(2A) In this Article “the relevant person” means–
      - (a) if the fixed penalty notice was fixed by a constable, the Chief Constable; and
      - (b) if it was fixed by a vehicle examiner, the Department.”;
  - (c) in paragraph (4)(c), for “Chief Constable” substitute “relevant person”.
- 10.** In Article 71 (hired vehicles)–
- (a) in paragraph (1)(c), for “Chief Constable” substitute “relevant person”;
  - (b) in paragraph (5), for “Chief Constable” substitute “person”;
  - (c) in paragraph (8), after the definition of “hiring agreement” insert–
    - ““relevant person” means–
      - (a) if the fixed penalty notice was fixed by a constable, the Chief Constable; and
      - (b) if it was fixed by a vehicle examiner, the Department.”.
- 11.** In Article 73(4) (meaning of “official form”), after “Chief Constable” insert “or the Department”.
- 12.** In Article 74 (payment of penalty)–
- (a) in paragraph (1), for “Payment of a fixed penalty under this Part” substitute “Where a fixed penalty notice has been given or fixed by a constable or authorised person under this Part, payment of the fixed penalty”;
  - (b) after that paragraph insert–



“(1A) Where a fixed penalty notice has been given or fixed by a vehicle examiner, or given by the Department, under this Part, payment of the fixed penalty must be made to the Department.”;

(c) in paragraph (3), after “clerk” insert “, or the Department,”.

**13.** In Article 75 (registration certificates)–

(a) in paragraph (2), for “Chief Constable” substitute “relevant person”;

(b) after that paragraph insert–

“(2A) In paragraph (2) “the relevant person” means–

(a) if the fixed penalty notice in question was given or fixed by a constable or given by an authorised person, the Chief Constable, and

(b) if it was given or fixed by a vehicle examiner or given by the Department, the Department.”;

(c) in paragraph (3), for “the Chief Constable, or a person authorised by him to act in that behalf,” substitute “a person”.

**14.** In Article 77 (notices on-the-spot or at a police station: when registration and endorsement invalid)–

(a) in the heading, for “or at a police station” substitute “etc.”;

(b) in paragraph (4), after “surrendered” insert “or delivered”.

**15.** In Article 78 (notices fixed to vehicles: when registration invalid)–

(a) in paragraph (4) for “Chief Constable” in both places substitute “relevant person”;

(b) after that paragraph insert–

“(4A) In paragraph (4) “the relevant person” means–

(a) if the fixed penalty notice was fixed by a constable, the fixed penalty clerk, and

(b) if it was fixed by a vehicle examiner, the Department.”;

(c) in paragraph (5), omit–

(i) “by or on behalf of the Chief Constable”; and

(ii) “such”;

(d) in paragraph (7)–

(i) omit “by or on behalf of the Chief Constable”; and

(ii) for “he” substitute “the person by whom it is served”.

**16.** In Article 80 (issue of conditional offer)–

(a) after paragraph (1) insert–

“(1A) Where–

(a) a vehicle examiner has reason to believe that a fixed penalty offence has been committed, and

(b) no fixed penalty notice in respect of the offence has been given under Article 60 or fixed to a vehicle under Article 67,

a notice under this Article may be sent to the alleged offender by the Department.”;

(b) in paragraph (3), for “person issues a conditional offer” substitute “conditional offer is issued by a person under paragraph (1)”;

- (c) in paragraph (5) for–
    - (i) “the fixed penalty clerk”, and
    - (ii) “that clerk”, in both places,
 substitute “the appropriate person”;
  - (d) after paragraph (6) insert–
    - “(7) In this Article and Articles 81 and 82 “the appropriate person” means–
      - (a) where the conditional offer was issued under paragraph (1), the fixed penalty clerk, and
      - (b) where the conditional offer was issued under paragraph (1A), the Department.”;
- 17. In Article 81 (effect of offer and payment of penalty)–**
- (a) in paragraph (1), for “sent” substitute “issued”;
  - (b) for paragraphs (2) to (5) substitute–
    - “(2) Where the alleged offender makes payment of the fixed penalty in accordance with the conditional offer, no proceedings shall be brought against him for the offence to which the offer relates unless paragraph (3) applies.
    - (3) This paragraph applies where–
      - (a) it appears to the appropriate person, on inspecting the licence and its counterpart, that the alleged offender would be liable to be disqualified under Article 40 if he were convicted of the offence to which the conditional offer relates;
      - (b) the appropriate person returns the payment to the alleged offender together with his licence and its counterpart; and
      - (c) where the appropriate person is not the Department, the appropriate person gives notice that he has done so to the Chief Constable.
    - (4) Where the requirements specified in the conditional offer in accordance with heads (i) and (ii) of Article 80(5)(a) have not been fulfilled, no proceedings shall be brought against the alleged offender for the offence to which the offer relates–
      - (a) until the end of the period of 28 days following the date on which the conditional offer was made, or such longer period as may be specified in the offer, and
      - (b) where the appropriate person is not the Department, unless the appropriate person notifies the Chief Constable that proceedings may be brought by virtue of this paragraph.”;
  - (c) in paragraph (6), for “(4)(b)” substitute “(3)(a)”;
  - (d) in paragraph (7), for–
    - (i) “the fixed penalty clerk”; and
    - (ii) “that clerk”,
 substitute “the appropriate person”;
- 18. In Article 82 (endorsement where penalty paid)–**
- (a) in sub-paragraph (a) of paragraph (1), for–
    - (i) “the fixed penalty clerk”; and
    - (ii) “the clerk”,

- substitute “the appropriate person”;
- (b) for sub-paragraph (b) of that paragraph substitute—
- “(b) proceedings against the alleged offender for the offence to which the conditional offer relates are excluded by Article 81,”;
- (c) in the words following that sub-paragraph, for “clerk” substitute “appropriate person”;
- (d) in paragraph (2)—
- (i) in sub-paragraph (a), for “fixed penalty clerk” substitute “appropriate person”;
- (ii) in sub-paragraph (b), for “the fixed penalty clerk” substitute “unless the appropriate person is the Department, the appropriate person”;
- (e) in paragraph (3), for “after a notice has been given in pursuance of paragraph (2)(b)” substitute “where paragraph (2) applies”;
- (f) in paragraph (5), for “The fixed penalty clerk” substitute “Where the appropriate person is the fixed penalty clerk, he”.
- 19.** In Article 84 (statements by constables)—
- (a) in paragraph (1)—
- (i) after “constable”, in the first place, insert “or vehicle examiner”;
- (ii) for “constable's” substitute “relevant”; and
- (iii) omit “constable or authorised”;
- (b) in paragraph (2)—
- (i) for “constable's” substitute “relevant”; and
- (ii) after “Policing Board” insert “or on behalf of the Department”;
- (c) in paragraphs (4) and (5), for “constable's” substitute “relevant”;
- (d) in paragraph (6)(b) for “production of the notice under Article 60(5) at a police station in accordance with that Article” substitute “delivery of the notice”.
- 20.** In Article 85 (certificates about payment), for “fixed penalty clerk”, in both places, substitute “person to whom it was required to be paid”.
- 21.** In Article 87 (powers of court where clerk deceived)—
- (a) in the heading, for “where clerk deceived” substitute “in cases of deception”;
- (b) in paragraph (1)—
- (i) in sub-paragraph (a), after “fixed penalty clerk” insert “or the Department”; and
- (ii) in sub-paragraph (b), for the words from “the fixed penalty clerk” to “the counterpart” substitute “the appropriate person is deceived as to whether proceedings against the person are excluded by Article 81”.
- 22.** In Article 88(1) (regulations) for “or 80(1)” substitute “80(1) or (1A) or 81(3)(c) or (4)(b)”.

*Road Traffic (New Drivers) (Northern Ireland) Order 1998 (NI 7)*

- 23.** In Article 4 (surrender of licences)—
- (a) in paragraph (3)—
- (i) in sub-paragraph (a)—
- (A) after “Offenders Order” insert “, retained by a vehicle examiner under that Article”; and

- (B) for “fixed penalty clerk”, in the second place where it occurs, substitute “appropriate person”;
  - (ii) in sub-paragraphs (c), (d) and (f), for “fixed penalty clerk” substitute “appropriate person”;
  - (b) in paragraph (4)–
    - (i) omit “, the fixed penalty clerk”;
    - (ii) in sub-paragraph (a), insert at the beginning “the appropriate person”; and
    - (iii) in sub-paragraph (b), insert at the beginning “unless the appropriate person is the Department, he”;
  - (c) in paragraph (5), omit “by the fixed penalty clerk”;
  - (d) after paragraph (6) insert–
    - “(7) In this Article and Article 5–
      - “the appropriate person”, in relation to a fixed penalty notice, means–
        - (a) if it was given by a constable or an authorised person, the fixed penalty clerk; and
        - (b) if it was given by a vehicle examiner or the Department, the Department; and
      - “the appropriate person”, in relation to a conditional offer, means–
        - (a) where the conditional offer was issued under Article 80(1) of the Offenders Order, the fixed penalty clerk; and
        - (b) where it was issued under paragraph (1A) of that Article, the Department.”.
- 24.** In Article 5 (revocation of licences)–
- (a) in paragraph (1) for “(4)” substitute “(4)(b)”;
  - (b) after that paragraph insert–
    - “(1ZA) Where Article 4(4)(a) applies but the appropriate person is the Department, the Department must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued, revoke that person’s licence.”;
  - (c) in paragraph (1A), after “paragraph (1)” insert “or (1ZA)”;
  - (d) in paragraph (1B), after “section 3(1)” insert “or (1ZA)”;
  - (e) in paragraph (2), for “paragraph (1) or (1B)” substitute “this Article”.
- 25.** In Schedule 1 (newly qualified drivers holding test certificates)–
- (a) in paragraph 1, after sub-paragraph (2) insert–
    - “(2A) In this Schedule “the appropriate person” has the same meaning as in Articles 4 and 5.”;
  - (b) in paragraph 3(4)–
    - (i) in head (a), for “fixed penalty clerk” in both places substitute “appropriate person”;
    - (ii) in head (c), for “fixed penalty clerk” substitute “appropriate person”; and
    - (iii) in the words following head (c), for “fixed penalty clerk to whom the payment is made” substitute “appropriate person”;
  - (c) in paragraph 4(3)–
    - (i) in head (b), for “fixed penalty clerk” substitute “appropriate person”; and

- (ii) for the words following head (c) substitute “Article 4(4) does not apply but if the appropriate person is the fixed penalty clerk sub-paragraph (4) applies instead.”;
- (d) in paragraph 5–
  - (i) after sub-paragraph (1) insert–

“(1ZA) Where Article 4(4) is disapplied by paragraph 4(3) and the appropriate person is the Department, the Department must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued revoke that person’s test certificate.”;
  - (ii) in sub-paragraph (1A), after “sub-paragraph (1)” insert “or (1ZA)”;
  - (iii) in sub-paragraph (1B), after “paragraph 5(1)” insert “or (1ZA)”;
  - (iv) in sub-paragraph (2), for “sub-paragraph (1) or (1B)” substitute “this paragraph”;
- (e) in paragraph 6(1), after “paragraph 5(1)” insert “or (1ZA)”;
- (f) in paragraph 7–
  - (i) in sub-paragraph (3)(b), for “fixed penalty clerk” substitute “appropriate person”;  
and
  - (ii) in sub-paragraph (4)–
    - (A) for “fixed penalty clerk” substitute “appropriate person”; and
    - (B) at the beginning of head (b) insert “unless the appropriate person is the Department.”;
- (g) in paragraph 8–
  - (i) after sub-paragraph (1) insert–

“(1ZA) Where paragraph 7(4) applies and the appropriate person is the Department, the Department must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued revoke that person’s licence and test certificate.”;
  - (ii) in sub-paragraph (1A), after “sub-paragraph (1)” insert “or (1ZA)”;
  - (iii) in sub-paragraph (1B), after “paragraph 8(1)” insert “or (1ZA)”;
  - (iv) in sub-paragraph (2), for “sub-paragraph (1) or (1B)” substitute “this paragraph”;
- (h) in paragraph 9, after “paragraph 8(1)” insert “or (1ZA)”;
- (i) in paragraph 10(a), after–
  - (i) “paragraph 5(1)”;
  - (ii) “paragraph 8(1)”;insert “or (1ZA)”.

## SCHEDULE 3

Article 25.

## NEW SCHEDULE 2A TO THE ORDER OF 1981

## “SCHEDULE 2A

OFFENCE OF KEEPING VEHICLE WHICH DOES NOT MEET INSURANCE  
REQUIREMENTS: IMMOBILISATION, REMOVAL AND DISPOSAL OF VEHICLES*Immobilisation*

1.—(1) Regulations may make provision with respect to any case where an authorised person has reason to believe that, on or after such date as may be prescribed, an offence under Article 91A is being committed as regards a vehicle which is stationary on a road or other public place.

(2) The regulations may provide that the authorised person or a person acting under his direction may—

- (a) fix an immobilisation device to the vehicle while it remains in the place where it is stationary, or
- (b) move it from that place to another place on the same or another road or public place and fix an immobilization device to it in that other place.

(3) The regulations may provide that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations the person fixing the device must also fix to the vehicle a notice—

- (a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device,
- (b) specifying the steps to be taken to secure its release, and
- (c) giving such other information as may be prescribed.

(4) The regulations may provide that a vehicle to which an immobilisation device has been fixed in accordance with the regulations—

- (a) may only be released from the device by or under the direction of an authorised person, but
- (b) subject to that, must be released from the device if the first and second requirements specified below are met.

(5) The first requirement is that such charge in respect of the release as may be prescribed is paid in any manner specified in the immobilisation notice.

(6) The second requirement is that, in accordance with instructions specified in the immobilisation notice, there is produced such evidence as may be prescribed establishing—

- (a) that any person who proposes to drive the vehicle away will not in doing so be guilty of an offence under Article 90, and
- (b) that the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 is not guilty of an offence under Article 91A as regards the vehicle.

(7) The regulations may provide that they do not apply in relation to a vehicle if—

- (a) a current disabled person’s badge is displayed on the vehicle, or
- (b) such other conditions as may be prescribed are fulfilled,

and “disabled person’s badge” means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 14 of the Chronically Sick and Disabled Persons

(Northern Ireland) Act 1978 or a recognised badge within the meaning given by section 14A of that Act.

(8) The regulations may provide that an immobilisation notice is not to be removed or interfered with except by or on the authority of a person falling within a prescribed description.

#### *Offences connected with immobilisation*

2.—(1) The regulations may provide that a person contravening provision made under paragraph 1(8) is guilty of an offence.

(2) The regulations may provide that a person who, without being authorised to do so in accordance with provision made under paragraph 1, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations is guilty of an offence.

(3) The regulations may provide that where they would apply in relation to a vehicle but for provision made under paragraph 1(7)(a) and the vehicle was not, at the time it was stationary, being used—

- (a) in accordance with regulations under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978, and
- (b) in circumstances falling within section 14B(1)(b) of that Act (use where a disabled person's concession would be available),

the person in charge of the vehicle at that time is guilty of an offence.

(4) The regulations may provide that where—

- (a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations,
- (b) the declaration is that no offence under Article 91A is or was being committed as regards the vehicle, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

#### *Removal and disposal of vehicles*

3.—(1) The regulations may make provision with respect to any case where—

- (a) an authorised person has reason to believe that an offence under Article 91A is being committed as regards a vehicle which is stationary on a road or other public place, and such conditions as may be prescribed are fulfilled, or
- (b) an authorised person has reason to believe that such an offence was being committed as regards a vehicle at a time when an immobilisation device which is fixed to the vehicle was fixed to it in accordance with the regulations, and such conditions as may be prescribed are fulfilled.

(2) The regulations may provide that the authorised person, or a person acting under his direction, may remove the vehicle and deliver it into the custody of a person—

- (a) who is identified in accordance with prescribed rules, and
- (b) who agrees to accept delivery in accordance with arrangements agreed between that person and the Department,

and the arrangements may include provision as to the payment of a sum to the person into whose custody the vehicle is delivered.

(3) The regulations may provide that the person into whose custody the vehicle is delivered may dispose of it, and may in particular make provision as to—

- (a) the time at which the vehicle may be disposed of, and
- (b) the manner in which it may be disposed of.

(4) The regulations may make provision allowing a person to take possession of the vehicle if—

- (a) he claims it before it is disposed of, and
- (b) any prescribed conditions are fulfilled.

(5) The regulations may provide for a sum of an amount arrived at under prescribed rules to be paid to a person if—

- (a) he claims after the vehicle's disposal to be or to have been its owner,
- (b) the claim is made within a prescribed time of the disposal, and
- (c) any other prescribed conditions are fulfilled.

(6) The regulations may provide that—

- (a) the Department, or
- (b) a person into whose custody the vehicle is delivered under the regulations,

may recover from the vehicle's owner (whether or not a claim is made under provision made under sub-paragraph (4) or (5)) such charges as may be prescribed in respect of all or any of the following, namely its release, removal, custody and disposal; and "owner" means the person who was the owner when the vehicle was removed.

(7) The conditions prescribed under sub-paragraph (4) may include conditions as to—

- (a) satisfying the person with custody that the claimant is the vehicle's owner,
- (b) the payment of prescribed charges in respect of the vehicle's release, removal and custody,
- (c) the production of such evidence as may be prescribed establishing that in driving the vehicle away the claimant will not be guilty of an offence under Article 90, and
- (d) the production of such evidence as may be prescribed establishing that the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 is not guilty of an offence under Article 91A as regards the vehicle.

(8) The regulations may in particular include provision for purposes corresponding to those of Articles 51 to 54 of the Road Traffic Regulation (Northern Ireland) Order 1997 (disposal and charges) subject to such additions, omissions or other modifications as the Department thinks fit.

#### *Offences as to securing possession of vehicles*

4. The regulations may provide that where—

- (a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of a person in accordance with provision made under paragraph 3,
- (b) the declaration is that no offence under Article 91A is or was being committed as regards the vehicle, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.



### *Disputes*

5. The regulations may make provision about the proceedings to be followed where a dispute occurs as a result of the regulations, and may in particular make provision—

- (a) for an application to be made to a court of summary jurisdiction, or
- (b) for a court to order a sum to be paid by the Department.

### *Authorised persons*

6. As regards anything falling to be done under the regulations (such as receiving payment of a charge or other sum) the regulations may provide that it may be done—

- (a) by an authorised person, or
- (b) by an authorised person or a person acting under his direction.

### *Application of Offenders Order*

7. The regulations may make provision for the application of any or all of Articles 5, 10, 14 and 15(1) of the Offenders Order to an offence for which provision is made by the regulations.

### *Interpretation*

8.—(1) The regulations may make provision as to the meaning for the purposes of the regulations of “owner” as regards a vehicle.

(2) In particular, the regulations may provide that for the purposes of the regulations the owner of a vehicle is taken to be the person in whose name it is then registered under the Vehicle Excise and Registration Act 1994.

9.—(1) The regulations may make provision as to the meaning in the regulations of “authorised person”.

(2) In particular, the regulations may provide that—

- (a) references to an authorised person are to a person authorised by the Department for the purposes of the regulations,
- (b) an authorised person may be a constable or some other person, and
- (c) different persons may be authorised for the purposes of different provisions of the regulations.

10. In this Schedule—

- (a) references to an immobilisation device are to a device or appliance which is—
  - (i) designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion; and
  - (ii) of a type approved by the Department for use for that purpose;
- (b) references to an immobilisation notice are to a notice fixed to a vehicle in accordance with the regulations.

11. In this Schedule “regulations” means regulations made by the Department under Article 103.”.

## SCHEDULE 4

Article 39

ENDORSEMENT: UNLICENSED AND FOREIGN  
DRIVERS: CONSEQUENTIAL AMENDMENTS

*The Child Support (Northern Ireland) Order 1991 (NI 23)*

1. In Article 37A(9) (disqualification from driving: further provision), for “the driving” substitute “any driving”.

*The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10)*

2. In Article 30(3) (penalty points to be attributed to an offence) for “or 82(4)” substitute “, 63A(6), 82(4) and 82A(6)”.

3. In Article 31(1)(b) (penalty points to be taken into account on conviction) after “him” insert “or on his driving record”.

4. In Article 32 (penalty points: modification where fixed penalty also in question)–

(a) in paragraph (1)(b)–

(i) after “licence” insert “or his driving record”, and

(ii) for “or 82” substitute “, 63A, 82 or 82A”;

(b) in paragraph (2)(b)–

(i) after “licence” insert “or on his driving record”, and

(ii) for “or 82” substitute “, 63A, 82 or 82A”.

5. For Article 33 (court may take particulars endorsed on licence into consideration) substitute–

**“Court may take particulars endorsed into consideration**

**33.** Where a person is convicted of an offence involving obligatory or discretionary disqualification–

(a) any existing endorsement on the counterpart of his licence or on his driving record is prima facie evidence of the matters endorsed, and

(b) the court may, in determining what order to make in pursuance of the conviction, take those matters into consideration.”.

6. In Article 41 (disqualification until test passed) after paragraph (10) insert–

“(10A) Where a person’s driving record is endorsed with particulars of a disqualification under this Article, it shall also be endorsed with the particulars of any test of competence to drive that he has passed since the order of disqualification was made”.

7. In Article 47 (removal of disqualification)–

(a) in paragraph (6), for sub-paragraph (a) substitute–

“(a) must–

(i) if particulars of the disqualification were previously endorsed on the counterpart of any licence previously held by the applicant, cause particulars of the order to be endorsed on that counterpart, and

(ii) if particulars of the disqualification were previously endorsed on the driving record of the applicant, send notice of the order to the Department.”;

(b) in paragraph (7), for “(6)(a)” substitute “(6)(a)(i)”;

(c) after that paragraph insert—

“(7A) If the disqualification was imposed in respect of an offence involving obligatory endorsement, the Department must, on receiving notice of an order under paragraph (6)(a)(ii), make any necessary adjustments to the endorsements on the person’s driving record to reflect the order.”;

(d) In paragraph (8), after “paragraph” insert “(6)(a)(ii) or”.

8. In Article 50 (effect of endorsement)—

(a) in the heading, insert at the end “of counterparts”;

(b) in paragraph (1) omit the words “, whether he is at the time the holder of a licence or not”.

9. After Article 50 insert—

**“Effect of endorsement of driving records**

**50A.**—(1) An order that any particulars or penalty points are to be endorsed on a person’s driving record shall operate as an order that his driving record is to be so endorsed until the end of the period for which the endorsement remains effective.

(2) At the end of the period for which the endorsement remains effective the Department must remove the endorsement from the person’s driving record.

(3) On the issue of a new licence to a person, any particulars ordered to be endorsed on his driving record shall be entered on the counterpart of the licence unless he has become entitled under paragraph (4) to have a licence issued to him with its counterpart free from those particulars or penalty points.

(4) A person the counterpart of whose licence has been endorsed under paragraph (3) is entitled to have issued to him with effect from the end of the period for which the endorsement remains effective a new licence with a counterpart free from the endorsement if he applies for a new licence in pursuance of Article 13(1) of the Order of 1981, surrenders any subsisting licence and its counterpart, pays the fee prescribed by regulations under Part II of that Order and satisfies the other requirements of Article 13(1) of that Order.

(5) The period for which an endorsement remains effective is determined in accordance with Article 50(4) to (6).”.

10. In Article 51 (combination of disqualification and endorsement with certain other orders)—

(a) in paragraph (1), for “or 49” substitute “,49 or 49A”;

(b) in paragraph (2)(b), insert at the end “or on his driving record”.

11. In Article 52 (supplementary provisions as to disqualification and endorsements)—

(a) in paragraph (3), after “licence” insert “or driving record”;

(b) after that paragraph insert—

“(3A) On receiving such a notice in relation to a person who is not the holder of a licence, the Department must make any necessary adjustments to the endorsements on the person’s driving record to reflect the outcome of the appeal.”.

12. In Article 53(1)(b) and (2)(b) (exemption from disqualification and endorsement for certain construction and use offences) after “him” insert “or on his driving record”.

13. In Article 60 (notices on-the-spot etc.)—

(a) in paragraph (2), for “paragraph (3)” substitute “the following provisions of this Article”;

(b) in paragraph (3), after “endorsement” insert “, and the person is the holder of a licence”;

- (c) in paragraph (4)–
    - (i) for the word “and” at the end of sub-paragraph (a) substitute–
      - “(aa) the person concerned is the holder of a licence, and”,
    - (ii) in sub-paragraph (b), for “the person concerned” substitute “he”;
  - (d) in paragraph (6), after “paragraph (4)” insert “or (5C)”;
  - (e) in paragraph (9), for “paragraphs (3)(b) and (5)(a)” substitute “this Article”.
14. In Article 63 (endorsement of licenses without hearings)–
- (a) in the heading, for “licences” substitute “counterparts”;
  - (b) in paragraph (1), after “a person” insert “who is the holder of a licence”.
15. In Article 64 (effect of endorsement without hearing) in the heading, after “endorsement” insert “of counterpart”.
16. After Article 64 insert–

**“Effect of endorsement of driving record without hearing**

**64A.**—(1) Where a person’s driving record is endorsed under Article 63A he shall be treated for the purposes of Articles 16(4), 30, 31 and 50A of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if–

- (a) he had been convicted of the offence,
- (b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49, and
- (c) the particulars of the offence endorsed by virtue of Article 63A(6)(a) were particulars of his conviction of that offence.

(2) In relation to any endorsement of a person’s driving record under Article 63A, the references in Article 16(4) to any order made on a person’s conviction are to be read as references to the endorsement itself.”.

17. In Article 66 (fixed penalty notice mistakenly given: exclusion of fixed penalty procedures) in the heading, after “given” insert “to licence holder”.
18. After Article 66 insert–

**“Fixed penalty notice mistakenly given to unlicensed person: exclusion of fixed penalty procedures**

**66A.**—(1) This Article applies where, on accessing information held on the driving record of a person to whom a fixed penalty notice was given under Article 60, but who is not the holder of a licence, it appears to the fixed penalty clerk or the Department that the person would be liable to be disqualified under Article 40 if he were convicted of the offence in respect of which the fixed penalty notice was given.

(2) The person’s driving record must not be endorsed under Article 63A.

(3) In a case where the fixed penalty is required to be paid to the fixed penalty clerk he must not send notice to the Department under Article 63A but instead must notify the Chief Constable that the person to whom the fixed penalty notice was given would be liable to be disqualified under Article 40 if he were convicted of the offence in respect of which the fixed penalty notice was given.

(4) Nothing in this Part prevents proceedings being brought in respect of the offence in respect of which the fixed penalty notice was given where those proceedings are commenced

before the end of the period of 6 months beginning with the date on which that notice was given.

(5) Where proceedings in respect of that offence are commenced before the end of that period, the case is from then on to be treated in all respects as if no fixed penalty notice had been given in respect of the offence.

(6) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of this Part by reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision—

(a) the registration under Article 76 of any sum, determined by reference to the fixed penalty for that offence, for enforcement against the person to whom the fixed penalty notice was given, and

(b) any proceedings for enforcing payment of any such sum within the meaning of Articles 78 and 79 (defined in Article 79(5)).

(7) In determining for the purposes of paragraph (1) whether a person convicted of an offence would be liable to disqualification under Article 40, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.”

**19.** In Article 74(5) (payment of penalty) for “82” substitute “82A”.

**20.** In Article 77 (notices on-the-spot etc.: when registration and endorsement invalid)—

(a) After paragraph (4) insert—

“(4A) Where in any case within paragraph (2)(a) the driving record of the person to whom the relevant fixed penalty notice was given was endorsed under Article 63A in respect of the offence in respect of which the notice was given, the endorsement shall be void.”;

(b) in paragraph (5)(a), after “63” insert “or 63A”;

(c) after paragraph (6) insert—

“(6A) The clerk of petty sessions must send notice to the Department of any endorsement of a person’s driving record that is void by virtue of this Article and the Department must adjust the endorsements on that record accordingly.”.

**21.** In Article 80 (issue of conditional offer)—

(a) in paragraph (2), for “and 82” substitute “,82 and 82A”;

(b) in paragraph (3), for “and 82” substitute “, 82 and 82A”;

(c) in paragraph (5), after “conditional offer” insert “sent to an alleged offender who is the holder of a licence”;

(d) after that paragraph insert—

“(5A) A conditional offer sent to an alleged offender who is not the holder of a licence must indicate that if the following conditions are fulfilled, that is—

(a) within the period of 28 days following the date on which the offer was issued, or such longer period as may be specified in the offer, the alleged offender makes payment of the fixed penalty to the appropriate person, and

(b) the appropriate person is satisfied, on accessing information held on the driving record of the alleged offender, that if he were convicted of the offence, he would not be liable to be disqualified under Article 40,

any liability to conviction of the offence shall be discharged.”;

- (e) in paragraph (6)–
    - (i) for “condition” substitute “conditions”; and
    - (ii) after “(5)(b)” insert “and (5A)(b)”;
  - (f) in paragraph (7), for “and 82” substitute “, 82 and 82A”.
- 22.** In Article 81 (effect of offer and payment of penalty)–
- (a) in paragraph (3)–
    - (i) in sub-paragraph (a), after “counterpart” insert “or (where the alleged offender is not the holder of a licence) accessing information held on his driving record”, and
    - (ii) in sub-paragraph (b), after “with” insert “(where he is the holder of a licence)”;
  - (b) in paragraph (4), after “80(5)(a)” insert “or (5A)(a)”.
- 23.** In Article 82 (endorsement where penalty paid)–
- (a) in the heading, after “endorsement” insert “of counterparts”;
  - (b) in paragraph (1)(a), after “a person” insert “who is the holder of a licence”.
- 24.** After Article 82 insert–

**“Endorsement of driving records where penalty paid**

**82A.—(1) Where–**

- (a) in pursuance of a conditional offer issued under Article 80(1) a person who is not the holder of a licence (referred to in this Article as the “alleged offender”) makes payment of the fixed penalty to the fixed penalty clerk, and
- (b) proceedings against the alleged offender for the offence to which the conditional offer relates are excluded by Article 81,

the fixed penalty clerk must forthwith send to the Department notice of the relevant particulars to be endorsed on the alleged offender’s driving record.

- (2) The Department must endorse the relevant particulars on a person’s driving record–
  - (a) on receiving notice under paragraph (1), or
  - (b) if, in pursuance of a conditional offer issued under Article 80(1A), a person who is not the holder of a licence (also referred to in this Article as the “alleged offender”) makes payment of the fixed penalty to it and proceedings against the alleged offender are excluded by Article 81.
- (3) Subject to paragraph (4), where a cheque tendered in payment is subsequently dishonoured–
  - (a) any endorsement made by the Department under paragraph (2) remains effective notwithstanding that the alleged offender is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and
  - (b) unless the appropriate person is the Department, the appropriate person must upon expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the person required to be notified that no payment has been made.
- (4) When proceedings are brought against an alleged offender where paragraph (3) applies, the court–
  - (a) must order the removal of the fixed penalty endorsement from the driving record of the alleged offender,

(b) may, on finding the alleged offender guilty, make any competent order of endorsement or disqualification and pass any competent sentence, and

(c) must send to the Department notice of any order made under sub-paragraph (a) or (b).

(5) On receiving a notice under paragraph (4)(c), the Department must make any necessary adjustments to the endorsements on the alleged offender's driving record.

(6) The references in paragraphs (1) and (2) to the relevant particulars are to—

(a) particulars of the offence, including the date when it was committed, and

(b) the number of penalty points to be attributed to the offence.

(7) Where a person's driving record is endorsed under this Article, he shall be treated for the purposes of Articles 16(4), 30, 31 and 50A of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if—

(a) he had been convicted of the offence,

(b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49 of this Order, and

(c) the particulars of the offence endorsed by virtue of paragraph (6)(a) were particulars of his conviction of that offence.

(8) In relation to any endorsement of a person's driving record under this Article, the references in Article 16(4) to any order made on a person's conviction are to be read as references to the endorsement itself.”

**25.** In Article 87 (powers of court in cases of deception)—

(a) after paragraph (1) insert—

“(1A) This Article also applies where—

(a) particulars are endorsed on a person's driving record under Article 63A because the fixed penalty clerk or the Department is deceived as to whether endorsement under that Article is excluded by Article 66A(2) by virtue of the fact that the person to whom the fixed penalty notice was given would be liable to be disqualified under Article 40 if he were convicted of the offence, or

(b) particulars are endorsed on a person's driving record under Article 82A because the appropriate person or court is deceived as to whether proceedings against the person are excluded by Article 81 by virtue of the fact that the person to whom the conditional offer is issued would be liable to be disqualified under Article 40 if he were convicted of the offence.”

(b) in paragraph (2)—

(i) in sub-paragraph (a), for “licence holder” substitute “person to whom the fixed penalty notice was given or conditional offer was issued”;

(ii) in sub-paragraph (b), for “licence holder” substitute “he”;

(iii) after “63” insert “or 63A”; and

(iv) after “82” insert “or 82A”.

**26.** In Article 88(1)(a) (regulations) after “60(4)” insert “ or (5C)”.

**27.** After Article 88 insert—

**“Notices to Department**

**88A.** Any notice sent to the Department under this Part must be sent in such manner and to such address and contain such particulars as the Department may determine.”.

- 28.** In Article 92ZA(1) (application to Great Britain licence holders)–
- (a) in sub-paragraph (h), after “49(1)” insert “and (2A)”;
  - (b) in sub-paragraph (j), for “and (3)” substitute “, (3) and (3A)”.
- 29.** In Article 92A(1) (application to Community licence holders)–
- (a) after “49(1)” insert “and (3A)”;
  - (b) after “52(3)” insert “and (3A)”.

## SCHEDULE 5

Article 40

## ENDORSEMENT: ALL DRIVERS: CONSEQUENTIAL AMENDMENTS

*The Road Traffic (Northern Ireland) Order 1981 (NI 1)*

1. In Article 4(8) (requirement for driving licence: exceptions) omit “, counterparts of licences”.
2. In Article 9(7B)(a) and (10) (requirements as to physical fitness of drivers) omit “and its counterpart”.
3. In Article 10 (revocation of licence because of disability or prospective disability)–
  - (a) in paragraphs (2)(b) and (3) omit “and its counterpart”;
  - (b) in paragraph (4)(a)–
    - (i) omit “and its counterpart”; and
    - (ii) for “them” substitute “it”;
  - (c) in paragraph (4)(b)–
    - (i) for “them” substitute “it”; and
    - (ii) for “their” substitute “its”.
4. In Article 13 (grant of licences)–
  - (a) in paragraph (1)(c)–
    - (i) in head (i) omit “and its counterpart”;
    - (ii) in head (ia) omit the words from “together” to the end; and
    - (iii) in head (ii) omit “and its counterpart (if any) issued to him”;
  - (b) in paragraph (1AA) omit–
    - (i) “together with the counterparts mentioned in paragraph (ia)”;
    - (ii) “and its Great Britain counterpart”.
5. In Article 14(1)(c) (form of licence) omit “or its counterpart”.
6. In Article 15 (duration of licences)–
  - (a) in paragraph (5)–
    - (i) omit sub-paragraph (b);
    - (ii) in sub-paragraph (c) omit “or in its counterpart”; and



- (iii) omit “and its counterpart”;
  - (b) in paragraph (6) omit “and its counterpart”;
  - (c) in paragraph (7A)–
    - (i) omit “and its counterpart”, in both places;
    - (ii) for “them”, in both places, substitute “it”; and
    - (iii) for “their” substitute “its”;
  - (d) in paragraph (8) omit “and its counterpart”.
- 7.** In Article 15A (authorisation to drive in Northern Ireland) omit paragraphs (5) and (6).
- 8.** In Article 15B (information about resident Community licence holders)–
- (a) omit paragraph (3);
  - (b) in paragraph (4) for “paragraphs (1) and (3)” substitute “paragraph (1)”;
  - (c) in paragraph (5) for “a Community licence delivered to it (whether or not in pursuance of this Article) in such manner as it may determine” substitute “the driving record of a person who delivers to it a Community licence (whether or not in pursuance of this Article)”;
  - (d) omit paragraph (6);
  - (e) for paragraph (7) substitute–
    - “(7) Where the name of a Community licence holders as specified in his Community licence ceases to be correct, he must deliver his Community licence immediately to the Department and provide it with particulars of the alterations falling to be made in the name on it”;
  - (f) omit paragraph (8);
  - (g) in paragraph (9) after “endorse the Community licence” insert “and that person’s driving record”;
  - (h) in paragraph (11)(b) omit “(6) or”;
  - (i) omit paragraph (12).
- 9.** In Article 15C (revocation of authorisation conferred by Community licence because of disability or prospective disability)–
- (a) in paragraph (1) to (4) omit “and its counterpart (if any)” in each place;
  - (b) omit paragraph (5).
- 10.** In Article 19C (regulations)–
- (a) in paragraph (1A)–
    - (i) sub-paragraph (a) for “Community licences and counterparts of such licences” substitute “and Community licences”;
    - (ii) in sub-paragraph (e) omit “and counterparts of licences” and “or counterparts of licences”; and
    - (iii) omit sub-paragraph (ea);
- 11.** In Article 19A(7) (information on counterpart of licence of newly qualified drivers) for “the Department shall enter on or affix to the counterpart of the licence a notice or other indication to show” substitute “the licence shall specify (in such manner as the Department may determine)”.
- 12.** In Article 19D (interpretation)–
- (a) in paragraph (1) omit the definition of “counterpart” and “Great Britain counterpart”;

- (b) omit paragraph (3).
- 13.** In Article 19E (provisions about Great Britain driver’s licences) for paragraph (2) substitute—
- “(2) For the purposes of this Order, any driver holding a Great Britain licence shall be under the same obligation to produce such a licence as if it had been a licence granted under this Part, and the provisions of this Order as to the production of licences granted under this Part shall apply accordingly.”.
- 14.** Article 19F (counterparts issued to Great Britain licence holders) is amended as follows—
- (a) in the heading, for “Counterparts issued to” substitute “Information about”;
- (b) for paragraphs (1) and (2) substitute—
- “(1) The Department may endorse the driving record of a Great Britain licence holder who delivers to it a Great Britain licence together with the information specified in, or required under, paragraph (3) with any part of that information.”
- (c) for paragraphs (4) and (5) substitute—
- “(4) Where the name of a Great Britain licence holder as specified in his Great Britain licence ceases to be correct, he may deliver his Great Britain licence immediately to the Department and provide it with particulars of the alterations falling to be made in the name on it.
- (5) On the delivery of a Great Britain licence by any person in pursuance of paragraph (4), the Department may endorse the Great Britain licence and that person’s driving record with the correct name and must return the Great Britain licence to that person.”.
- 15.** In Article 19G (revocation of authorisation conferred by Great Britain licence because of disability or prospective disability)—
- (a) in paragraph (1) omit the words from “together” to the end;
- (b) in paragraph (2)—
- (i) in sub-paragraph (a) omit “together with the relevant counterparts”; and
- (ii) in sub-paragraph (b) omit “and those counterparts”;
- (c) in paragraph (4) omit “and the relevant counterparts”;
- (d) omit paragraph (5);
- (e) in paragraph (7) omit “and its Great Britain counterpart”.
- 16.** In Article 73A(1) (community licence holders: cessation of authorisation, etc.) omit “and its counterpart (if any)”.
- 17.** In Article 74A (community licences: disqualification, etc.) omit “and its counterpart (if any)” in both places.
- 18.** In Article 75 (revoked or suspended licences: surrender, return and endorsement)—
- (a) in paragraph (1) omit “and its counterpart”;
- (b) in paragraph (3) omit “and its counterpart”;
- (c) omit paragraph (4).
- 19.** In Article 78 (interpretation) omit the definition of “counterpart”.
- 20.** In Article 79(3) (provisions as to Great Britain licences)—
- (a) for “and its counterpart are” substitute “is”; and
- (b) for “them” substitute “it”.

**21.** In Article 174 (false statements in connection with forgery of, and fraudulent use of, documents; issue of false insurance certificate and powers of seizure)–

- (a) in paragraph (2A)–
  - (i) in sub-paragraph (a) omit the words from “or” to the end; and
  - (ii) omit sub-paragraph (b); and
- (b) omit paragraph (2B).

**22.** In Article 180 (enforcement powers of constable)–

- (a) in paragraph (3B)–
  - (i) omit “and its counterpart”;
  - (ii) for “them” in each place where it occurs substitute “it”; and
  - (iii) for “their” substitute “its”;
- (b) in paragraph (3C)–
  - (i) omit “and its counterpart” in each place where it occurs;
  - (ii) for “their” substitute “its”; and
  - (iii) for “them” in both places where it occurs substitute “it”;
- (c) in paragraph (4AA)–
  - (i) omit “and its counterpart” in each place where it occurs; and
  - (ii) for “their” in both places substitute “its”;
- (d) in paragraph (8)–
  - (i) omit “or counterpart of any such licences” and
  - (ii) omit the reference to “counterpart”.

*The Child Support (Northern Ireland) Order 1991 (NI 23)*

**23.** In Article 37A (disqualification from driving: further provision)–

- (a) in paragraph (4) omit the words from “, and” to the end;
- (b) in paragraph (9)–
  - (i) omit “and its counterpart”;
  - (ii) for “their” substitute “its”.

*The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10)*

**24.** In Article 2 (interpretation)–

- (a) in paragraph (2)–
  - (i) in the definition of “the provisions connected with the licensing of drivers” for “92ZA to and 92B” substitute “92ZA and 92A”; and
  - (ii) in the words following the definition of “statutory provision” omit ““counterpart””;
- (b) omit paragraph (4).

**25.** In Article 10(3)(a)(ii) (time within which summary proceedings for certain offences must be commenced) omit “and counterpart”.

**26.** In Article 11 (duty of accused to provide licence) omit the words from “and the foregoing” to the end.

- 27.** In Article 28 (interim disqualification)–
- (a) in paragraph (4)–
    - (i) in sub-paragraph (a) omit “and its counterpart”; and
    - (ii) in sub-paragraph (b) omit “and counterpart”;
  - (b) in paragraph (5)–
    - (i) omit “and its counterpart”;
    - (ii) for “them” substitute “it” and
    - (iii) omit “and counterpart”;
  - (c) in paragraph (6)(b)–
    - (i) omit “and its counterpart”;
    - (ii) omit “and counterpart”; and
    - (iii) for “their” substitute “its”.
- 28.** In Article 29 (production of licence)–
- (a) omit “and its counterpart” in each place;
  - (b) in paragraph (1) for “them” substitute “it”;
  - (c) in paragraph (2)(b) for “are produced” substitute “is produced”; and
  - (d) in paragraph (3) for “their” substitute “its”.
- 29.** In Article 30(3) (penalty points to be attributed to an offence) for “63(5), 63A(6), 82(4)” substitute “63A(6)”.
- 30.** In Article 31(1)(b) (penalty points to be taken into account on conviction) omit “the counterpart of any licence held by him or on”.
- 31.** In Article 32 (penalty points: modification where fixed penalty also in question)–
- (a) in paragraph (1)(b)–
    - (i) omit “the counterpart of his licence or”, and
    - (ii) for “63, 63A, 82” substitute “63A”;
  - (b) in paragraph (2)(b)–
    - (i) omit “on the counterpart of his licence or”, and
    - (ii) for “63, 63A, 82” substitute “63A”.
- 32.** In Article 33(a) (court may take particulars endorsed into consideration) omit “the counterpart of his licence or on”.
- 33.** In Article 41 (disqualification until test is passed) omit paragraph (10).
- 34.** In Article 47 (removal of disqualification)–
- (a) in paragraph (6) for sub-paragraph (a) substitute–
    - “(a) must send notice of the order to the Department.”;
  - (b) omit paragraph (7);
  - (c) in paragraph (7A) for “(6)(a)(ii)” substitute “(6)(a)”; and
  - (d) in paragraph (8) for “(6)(a)(ii) or (7)” substitute “(6)(a)”.
- 35.** Omit Article 50 (effect of endorsement of counterparts).
- 36.** In Article 50A (effect of endorsement of driving records) for paragraphs (3) to (5) substitute–

“(3) An endorsement ordered on a person’s conviction of an offence remains effective (subject to paragraphs (4) and (5))–

- (a) if an order is made for the disqualification of the offender, until 4 years have elapsed since the conviction; and
- (b) if no such order is made, until either–
  - (i) 4 years have elapsed since the commission of the offence; or
  - (ii) an order is made for the disqualification of the offender under Article 40.

(4) Where the offence was one under Article 9 or 10 of the Order of 1995 (causing death, or grievous bodily injury, by dangerous driving and dangerous driving), the endorsement remains in any case effective until 4 years have elapsed since the conviction.

(5) Where the offence was one–

- (a) under Article 14, 15(1) or 16(1)(a) of the Order of 1995 (driving offences connected with drink or drugs);
- (b) under Article 18(7) of that Order (failing to provide specimen) involving obligatory disqualification; or
- (c) under Article 18A(6) of that Order (failing to allow a specimen to be subjected to a laboratory test),

the endorsement remains effective until 11 years have elapsed since the conviction.”.

**37.** In Article 51(2)(b) (combination of disqualification and endorsement with probation orders and orders for discharge) omit “the counterpart of any licence held by him or on”.

**38.** In Article 52 (supplementary provisions as to disqualifications and endorsements)–

(a) for paragraph (2) substitute–

“(2) Where a court orders the endorsement of a person’s driving record it may, and where a court orders a person to be disqualified for a period of 56 days or more it must, send any licence of the person that is produced to the court, to the Department”;

- (b) in paragraph (2A) omit “and its counterpart”;
- (c) in paragraph (3) omit “a licence or”;
- (d) in paragraph (3A) omit “in relation to a person who is not the holder of a licence”; and
- (e) in paragraph (4) omit “and the counterpart of a licence”.

**39.** In Article 53(1)(b) and (2)(b) (exemption from disqualification and endorsement for certain construction and use offences) omit “the counterpart of any licence held by him or on”.

**40.** In Article 62 (licence receipts)–

- (a) omit “and its counterpart” in each place; and
- (b) in paragraph (2) for “them” substitute “it”.

**41.** Omit Article 64 (effect of endorsement of counterpart without hearing).

**42.** Omit Article 66 (fixed penalty notice mistakenly given to licence holder: exclusion of fixed penalty procedures).

**43.** In Article 66A (fixed penalty notice given mistakenly to unlicensed person: exclusion of fixed penalty procedures)–

- (a) in the heading omit “to unlicensed person”;
- (b) in paragraph (1) omit “but who is not the holder of a licence,”; and

- (c) in paragraph (3) insert at the end “and send the Chief Constable any licence sent to him under Article 60(7)”.
- 44.** In Article 77 (notices on-the-spot etc.: when registration and endorsement invalid)–
- (a) omit paragraph (4);
  - (b) in paragraph (5) omit “63 or”; and
  - (c) omit paragraph (6).
- 45.** In Article 80 (issue of conditional offer)–
- (a) in paragraphs (2) and (3) for “82 and 82A” substitute “and 82A”;
  - (b) omit paragraph (5);
  - (c) in paragraph (5A)–
    - (i) omit “who is not the holder of a licence”; and
    - (ii) in sub-paragraph (a) for the words after “offender” substitute–
      - “(i) makes payment of the fixed penalty to the appropriate person, and
      - (ii) where he is the holder of a licence and the offence to which the offer relates is an offence involving obligatory endorsement, at the same time delivers his licence to the appropriate person, and”;
  - (d) in paragraph (7) for “82 and 82A” substitute “and 82A”.
- 46.** In Article 81 (effect of offer and payment of penalty)–
- (a) in paragraph (3)–
    - (i) in sub-paragraph (a), omit “inspecting the licence and its counterpart or (where the alleged offender is not the holder of a licence)” and for “his” substitute “the alleged offender's”; and
    - (ii) in sub-paragraph (b), omit “and its counterpart”;
  - (b) in paragraph (4) for “80(5)(a) or (5A)(a)” substitute “80(5A)”.
- 47.** Omit Article 82 (endorsement of counterparts where penalty paid).
- 48.** In Article 82A (endorsement of driving records where penalty paid)–
- (a) in paragraph (1)–
    - (i) omit “who is not the holder of a licence”;
    - (ii) after “to the fixed penalty clerk” insert “and (if he is the holder of a licence) delivers his licence to the fixed penalty clerk”;
    - (iii) insert at the end “together with any licence delivered under sub-paragraph (a)”;
  - (b) in paragraph (2)–
    - (i) after “record” insert “and return any licence delivered to it under this Article to the alleged offender”;
    - (ii) omit “who is not the holder of a licence”; and
    - (iii) after “to it” insert “and (if he is the holder of a licence) delivers his licence to it”.
- 49.** In Article 87 (powers of court in cases of deception)–
- (a) omit paragraph (1);
  - (b) in paragraph (1A) omit “also”; and
  - (c) in paragraph (2) omit–
    - (i) “63 or”; and

(ii) “82 or”.

**50.** In Article 88(1)(a) (regulations for the purpose of this Part) for “60(4) or (5C)” substitute “60(5)”.

**51.** In Article 92ZA (application to Great Britain licence holders)–

(a) in paragraph (1)–

- (i) in sub-paragraph (b) omit “and (6)(b)”;
- (ii) omit sub-paragraphs (d) to (i);
- (iii) in sub-paragraph (j) omit “, (3) and (3A)”;
- (iv) omit sub-paragraph (k);

(b) omit paragraphs (3) to (6);

(c) in paragraph (7)–

- (i) omit “and its counterpart (if any)”;
- (ii) for “their” substitute “its”;

(d) in paragraph (8) omit “and its counterpart”; and

(e) in paragraph (9)–

- (i) in sub-paragraph (a) for “paragraph (5)” substitute “Article 49A of an order for the endorsement of a person’s driving record”; and
- (ii) in sub-paragraph (b)(i) after “licence” insert “, or a person normally resident in Great Britain who does not hold a licence,”.

**52.** Omit Article 92ZB (effect of endorsement on Great Britain licence holders).

**53.** In Article 92A (application to Community licence holders)–

(a) in paragraph (1) omit from “, 29” to “and 53”;

(b) omit paragraphs (2) to (4);

(c) in paragraph (5)–

- (i) omit “and its counterpart (if any)”;
- (ii) for “their” substitute “its”;

(d) omit paragraph (6);

(e) for paragraph (7) substitute–

“(7) Where–

(a) a notice is sent to the Department under Article 49A for the endorsement of a person’s driving record with any particulars or penalty points, and

(b) the particulars contained in the notice include–

- (i) particulars of an offence in respect of which the holder of a Community licence, or a person normally resident in another EEA state who does not hold a licence, is disqualified by an order of a court, and
- (ii) particulars of the disqualification,

the Department must send a notice containing the particulars mentioned in sub-paragraph (b)(i) and (ii) to the licensing authority in the EEA state in respect of which the Community licence was issued or, where the person disqualified is not the holder of a licence, the licensing authority in the EEA state where the person is normally resident.

(7A) Where a Community licence has been sent to the Department in pursuance of paragraph (5), it must return the Community licence to the holder–

- (a) on the expiry of the period of disqualification, or
- (b) if earlier, on being satisfied that the holder has left Northern Ireland and is not normally resident there.”;

(f) omit paragraphs (8) to (10).

**54.** Omit Article 92B (effect of endorsement on Community licence holders).

**55.** In Part I of Schedule 1 (prosecution and punishment of offences)–

- (a) in the entry relating to Article 9(10) of the Order of 1981, omit “and counterpart”;
- (b) in the entry relating to Article 10(3) of that Order, omit “and counterpart”;
- (c) in the entry relating to Article 15(7) of that Order, omit “and its counterpart” and “and counterpart”;
- (d) in the entry relating to Article 15C(4) of that Order, omit “and its counterpart”;
- (e) in the entry relating to Article 75 of that Order, omit “and its counterpart”;
- (f) in the entry relating to Article 28 of the Offenders Order, omit “and counterpart”; and
- (g) in the entry relating to Article 29 of the that Order, omit “and counterpart”.

*The Road Traffic (New Drivers) (Northern Ireland) Order 1998 (NI 7)*

**56.** In Article 4 (surrender of licences)–

(a) for paragraph (2) substitute–

“(2) Where this paragraph applies, the court must, together with the notice of the order referred to in paragraph (1)(d) required to be sent to the Department under Article 49A of the Offenders Order, send the person’s licence on its production to the court.”;

(b) in paragraph (3)–

(i) in sub-paragraph (a) for “and its counterpart have” substitute “has”;

(ii) in sub-paragraph (c)–

(A) omit “appropriate person endorses the number of”; and

(B) for “on the counterpart of the licence” substitute “are to be endorsed on the person’s driving record”; and

(iii) in sub-paragraph (f)–

(A) before “endorsed” insert “to be”; and

(B) for “counterpart of the licence” substitute “person’s driving record”;

(c) in paragraph (4)–

(i) in sub-paragraph (a)–

(A) omit “and its counterpart”; and

(B) for “63(3) or (4) or 82(1)” substitute “63A(3) or (4) or 82A(2)”; and

(ii) in sub-paragraph (b) insert at the end “together with the notice he is required to send under Article 63A or 82A of the particulars to be endorsed on the person’s driving record”.

**57.** In Article 5 (revocation of licences) for paragraph (1) substitute–

“(1) Where the Department receives–



- (a) a notice sent to it under Article 49A, 63A or 82A of the Offenders Order of particulars required to be endorsed on a person's driving record, and
  - (b) a person's licence sent to it in accordance with Article 4(2) or (4)(b),
- the Department must by notice served on that person revoke the licence.”.
- 58.** In Article 12(2) (service of documents etc.) omit “and its counterpart” in both places.
- 59.** In Schedule 1 (newly qualified drivers holding test certificates)–
- (a) in paragraph 3–
    - (i) in sub-paragraph (2) omit “and its counterpart”; and
    - (ii) in sub-paragraph (4)(a) omit “(with its counterpart)”;
  - (b) in paragraph 4–
    - (i) for sub-paragraph (2) substitute–

“(2) The court shall send to the Department, on its production to the court, the person's test certificate, together with the notice of the order referred to in Article 4(1)(d)”; and
    - (ii) in sub-paragraph (4) for the words following “Department” substitute “the person's test certificate together with the notice he is required to send under Article 63A or 82A of the particulars to be endorsed on the person's driving record.”;
  - (c) in paragraph 5(1)–
    - (i) for “paragraph 4 of” substitute “Article 49A, 63A or 82A of the Offenders Order of”;
    - (ii) for “or endorsed on the counterpart of a person's licence” substitute “on a person's driving record”; and
    - (iii) for “(4)(b)” substitute “(4)”;
  - (d) in paragraph 7–
    - (i) for sub-paragraph (2) substitute–

“(2) The court shall, together with the notice of the order referred to in Article 4(1)(d), send to the Department–

      - (a) on its production to the court, the person's licence, and
      - (b) on its production to the court, the person's test certificate.”; and
    - (ii) in sub-paragraph (4)–
      - (A) in paragraph (a), omit “and its counterpart”;
      - (B) in that paragraph, for “63(3) or (4) or 82(1)” substitute “63A(3) or (4) or 82A(2)”; and
      - (C) in paragraph (b), for “them” substitute “it” and insert at the end

“together with the notice he is required to send under Article 63A or 82A of the Offenders Order of the particulars to be endorsed on the person's driving record.”;
  - (e) in paragraph 8(1)(a)–
    - (i) for “paragraph 7(2)(a)” substitute “Article 49A, 63A or 82A of the Offenders Order”;
    - (ii) for “the counterpart of a person's licence” substitute “a person's driving record”;
    - (iii) omit “and its counterpart”; and
    - (iv) for “7(2)(b)” substitute “7(2)(a)”.

*The Road Traffic (Northern Ireland) Order 2007 (NI)*

60. In Article 46(5) (interpretation of that Part) omit “and “counterpart”, in relation to a Community licence”.

61. In Article 47 (expressions defined in that Part) omit “and counterpart”.

62. In Article 53(13) (registration of disabled persons) in paragraph (c) of the definition of “disabled person’s limited driving licence” omit “and a counterpart of that licence”.

## SCHEDULE 6

Article 78

ENTRIES TO BE INSERTED IN PART I OF SCHEDULE 1 TO THE  
OFFENDERS ORDER IN RESPECT OF DRIVING INSTRUCTION

| (1)<br>Provision<br>Creating<br>offence  | (2)<br>General<br>nature of<br>offence  | (3)<br>Mode of<br>prosecution | (4)<br>Punishment                    | (5)<br>Disqualification | (6)<br>Endorsement | (7)<br>Penalty<br>points |
|--|---|-------------------------------|--------------------------------------|-------------------------|--------------------|--------------------------|
| <b>Offences under Part V of the Road Traffic (Northern Ireland) Order 2007</b> |   |                               |                                      |                         |                    |                          |
| Article<br>49(1) and<br>(2)  | Giving of<br>paid driving<br>instruction<br>and carrying<br>on of<br>business in<br>provision<br>of driving<br>instruction,<br>by<br>unregistered<br>persons.   | Summarily                     | Level 4 on<br>the standard<br>scale. |                         |                    |                          |
| Article<br>49(4)   | Giving<br>of paid<br>instruction,<br>and carrying<br>on of<br>business in<br>provision<br>of driving<br>instruction,<br>without<br>prescribed<br>requirements<br>relating to<br>displaying<br>of<br>evidence of<br>registration<br>under Part | Summarily                     | Level 3 on<br>the standard<br>scale. |                         |                    |                          |

| (1)<br>Provision<br>Creating<br>offence | (2)<br>General<br>nature of<br>offence  | (3)<br>Mode of<br>prosecution | (4)<br>Punishment                    | (5)<br>Disqualification | (6)<br>Endorsement | (7)<br>Penalty<br>points |
|---|---|-------------------------------|--------------------------------------|-------------------------|--------------------|--------------------------|
|   | V of Order<br>of 2007.  |                               |                                      |                         |                    |                          |
| Article<br>53(4)                        | Failure, on<br>application<br>for<br>registration<br>as disabled<br>driving<br>instructor,<br>to notify<br>Registrar of<br>onset of, or<br>deterioration<br>in,<br>relevant or<br>prospective<br>disability | Summarily                     | Level 3 on<br>the standard<br>scale. |                         |                    |                          |
| Article<br>67(3)                        | Failure by<br>registered<br>disabled<br>driving<br>instructor<br>to notify<br>Registrar of<br>onset of, or<br>deterioration<br>in,<br>relevant or<br>prospective<br>disability.                             | Summarily                     | Level 3 on<br>the standard<br>scale. |                         |                    |                          |
| Article 68                              | Giving of<br>paid driving<br>instruction<br>by disabled<br>persons<br>without<br>emergency<br>control<br>certificate<br>or in<br>unauthorised<br>motor<br>vehicle.  | Summarily                     | Level 3 on<br>the standard<br>scale. |                         |                    |                          |
| Article 70                              | Misuse of<br>evidence of  | Summarily                     | Level 4 on<br>the standard<br>scale. |                         |                    |                          |

| (1)<br>Provision<br>Creating<br>offence | (2)<br>General<br>nature of<br>offence   | (3)<br>Mode of<br>prosecution | (4)<br>Punishment                    | (5)<br>Disqualification | (6)<br>Endorsement | (7)<br>Penalty<br>points |
|---|--|-------------------------------|--------------------------------------|-------------------------|--------------------|--------------------------|
|   | registration<br>etc.   |                               |                                      |                         |                    |                          |
| Article 7                               | Failure of<br>instructor<br>to surrender<br>to Registrar<br>certificate<br>etc.              | Summarily                     | Level 3 on<br>the standard<br>scale. |                         |                    |                          |
| Article 72                              | Failing to<br>produce<br>certificate of<br>registration<br>etc. as<br>driving<br>instructor. | Summarily                     | Level 3 on<br>the standard<br>scale. |                         |                    |                          |

## SCHEDULE 7

Article 86

## MINOR AND CONSEQUENTIAL AMENDMENTS

*The Road Traffic (Northern Ireland) Order 1981 (NI 1)*

1. In Article 2(2) (interpretation)–
  - (a) for the definition of “Community licence” substitute–
 

““Community licence” has the meaning assigned to it by Article 19D;”;
  - (b) insert in the appropriate place alphabetically–
 

““the Order of 2007” means the Road Traffic (Northern Ireland) Order 2007;”
  - (c) in the definition of “the Road Traffic Orders”–
    - (i) omit “and”; and
    - (ii) after “1997” insert “and the Order of 2007”.
2. In Article 15D(b) (application of provisions on information relating to disabilities to Community licences) for “(3)” in both places where it occurs substitute “(3B)”.
3. In Article 19H(c) (application of provisions on information relating to disabilities to Great Britain licences) for the words “after paragraph (3A) there shall be substituted” substitute the words “for paragraph (3B) there were substituted”.
4. In Article 73(7) (revocation or suspension of licences) for the words “paragraph (3)” substitute the words “paragraph (6)”.
5. In Article 78 (interpretation) for the words “this Article and Articles 70 to 77” substitute the words “this Article, Articles 70 to 77 and Article 180A”.

6. In Article 212 (application of Order to hovercraft and trolley vehicles) in paragraph (3) for the words “166 to 168” substitute “168A”.

*The Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)*

7. In Article 26(2) (list of offences to which powers of summary arrest apply) for sub-paragraph (ee) substitute–

“(ee) offences under Article 168A(1)(c) of the Road Traffic (Northern Ireland) Order 1981 (driving while disqualified);”.

8. In Article 35(7) (limitations on police detention after arrest) for the words “under Article 17(5) of the Road Traffic (Northern Ireland) Order 1995” substitute the words “under Article 17D of the Road Traffic (Northern Ireland) Order 1995”.

*The Road Traffic (Northern Ireland) Order 1995 (NI 18)*

9. In Article 2(2) (interpretation)

(a) insert in the appropriate place alphabetically–

““the Order of 2007” means the Road Traffic (Northern Ireland) Order 2007;”

(b) in the definition of “the Road Traffic Orders”–

(i) omit “and”; and

(ii) after “1997” insert “and the Order of 2007”.

10. In Article 13(3) (interpretation) for the words “A person does not provide a specimen of breath for a preliminary breath test or for analysis unless the specimen” substitute the words “A person does not co-operate with a preliminary test or provide a specimen of breath for analysis unless his co-operation or the specimen”.

11. In Article 18(4) (provision of specimen for analysis) after sub-paragraph (bb) insert–

“(bc) as a result of the administration of a preliminary drug test, the constable making the requirement has reasonable cause to believe that the person required to provide a specimen of blood or urine has a drug in his body, or”.

12. In Article 20(1) (protection for hospital patients)–

(a) for the words “to provide a specimen of breath for a preliminary breath test or for analysis” substitute the words “to co-operate with a preliminary test”;

(b) in sub-paragraph (a) for the words “it shall be for the provision of a specimen at the hospital” substitute the words “it shall be for co-operation with a test administered, or for the provision of a specimen, at the hospital”.

13. In Article 21(1) (detention of persons affected by alcohol or drugs) after the words “a person required” insert the words “under Article 18”.

14. In Article 60(3) (special vehicle orders) at the beginning insert “Article 110(1) and ”.

*The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10)*

15. In Article 2(2) (interpretation)–

(a) after the definition of “clerk of petty sessions” insert–

““the Department” means the Department of the Environment;”;

(b) insert in the appropriate place alphabetically–

“the Order of 2007” means the Road Traffic (Northern Ireland) Order 2007;”

(c) in the definition of “the Road Traffic Orders”–

(i) omit “and”; and

(ii) after “1997” insert “and the Order of 2007”.

16. In Article 5(4) (requirement of warning etc. of prosecutions for certain offences) for sub-paragraph (a) substitute–

“(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);”.

17. In Article 10(3)(a) (time within which summary proceedings for certain offences under the Order of 1981 must be commenced)–

(a) before head (i) insert–

“(iz) Article 9(13) (driving after making false declaration as to physical fitness);”;

(b) after head (i) insert–

“(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));”;

(c) after head (iii) insert–

“(iiia) Article 168A(1) (applying for or obtaining a driving licence, or driving while disqualified);”.

18. For Article 22 (evidence by certificate as to registration of driving instructors and licences to give instruction) substitute–

**“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.”.

19. For Article 41(11A) (expiration of disqualification until test passed) substitute–

“(11A) For the purposes of paragraph (11), “designated country or territory” means a country or territory designated by order under Article 19D(2) of the Order of 1981 but a test conducted under the law of such a country or territory shall not be regarded as a corresponding test unless a person passing such a test would be entitled to an exchangeable licence as defined in Article 19D(1) of that Order.”.

20. In Article 42(4) (person may obtain provisional licence and drive in accordance with that licence if disqualified until test is passed) for the words “entitled to obtain and to hold a provisional licence” substitute the words “entitled to apply for, obtain and to hold a provisional licence”.

21. In Part I of Schedule 1 (prosecution and punishment of offences)–

- (a) in the entry relating to offences under Article 3(1) of the Order of 1981, for the entry in column (2) substitute “Driving otherwise than in accordance with a licence.”;
- (b) in the entry relating to offences under Article 3(2) of the Order of 1981, in the entry in column (2) for the word “without” substitute the words “otherwise than in accordance with”;
- (c) after the entry relating to offences under Article 9(10) of the Order of 1981 insert–

|                |  |            |                                |                                |
|----------------|--|------------|--------------------------------|--------------------------------|
| “Article 9(13) | Driving after making false declaration as to physical fitness. | Summarily. | Level 4 on the standard scale. | DiscretionaryObligatory. 3–6”; |
|----------------|--|------------|--------------------------------|--------------------------------|

(d) after the entry relating to offences under Article 11(3) of the Order of 1981 insert–

|                 |  |            |  |                                |
|-----------------|--|------------|--|--------------------------------|
| “Article 11(3B) | Driving after such a failure and that paragraph as applied by Article 15D(b) or 19H(c).  | Summarily. | Level 3 on the standard scale.                     | DiscretionaryObligatory. 3–6   |
| Article 11A     | Driving after refusal of licence under Article 9(3), revocation under Article 10(1) or (2) or service of a notice under Article 15C or 19G | Summarily. | Level 5 on the standard scale or 6 months or both. | DiscretionaryObligatory. 3–6”; |

(e) after the entry relating to offences under Article 154(2) of the Order of 1981 insert–

|   |   |            |   |                              |
|---|---|------------|---|------------------------------|
| “Article<br>168A(1)(a)<br>or (b)  | Applying<br>for or<br>obtaining<br>driving<br>licence<br>while<br>disqualified.     | Summarily. | Level 3<br>on the<br>standard<br>scale.                           |                              |
| Article<br>168A(1)(c)   | Driving<br>while<br>disqualified.   | Summarily. | Level 5<br>on the<br>standard<br>scale or 6<br>months or<br>both. | DiscretionaryObligatory. 6”; |
| <p>(f) in the entry relating to offences under Article 174(1) of the Order of 1981 for the words in column (2) substitute the words “Making certain false statements, furnishing certain false particulars or withholding certain material information etc.”;</p> <p>(g) in the entry relating to offences under Article 174(2) of the Order of 1981 for the words in column (2) substitute the words “Forgery, etc. of licences, test certificates, certificates of insurance and other documents and things”;</p> <p>(h) in the entry relating to offences under Article 17 of the Order of 1995 for the words in column (2) substitute the words “Failing to co-operate with a preliminary test.”;</p> <p>(i) after the entry relating to offences under Article 63 of the Order of 1995 insert–</p> |   |            |   |                              |
| “Article<br>63A   | Using etc.,<br>vehicle<br>without<br>displaying<br>required<br>test<br>certificate. | Summarily. | Level 1<br>on the<br>standard<br>scale.”                          |                              |

*The Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2)*

**22.** In Article 2(2) (interpretation) in the definition of “the Road Traffic Orders”–

- (a) omit “and”; and
- (b) after “this Order” insert “and the Road Traffic (Northern Ireland) Order 2007.”



## SCHEDULE 8

Article 86

## REPEALS

## PART I

## GENERAL

| Short Title  | Extent of repeal  |
|--|---|
| The Transport Act (Northern Ireland) 1967 (c. 37).             | In section 9(1) the words “, with the approval of the Ministry of Finance,”.<br><br>In sections 16(2), 23(2), 25(2) and 25(4) the words “with the approval of the Ministry of Finance”.   |
| The Road Traffic (Northern Ireland) Order 1981 (NI 1).         | Article 3(3).<br><br>In Article 5(5), sub-paragraph (b) and the word “and” immediately before it.<br><br>Article 13(6).<br><br>Article 14(6).<br><br>Article 19C(1A)(b).<br><br>Article 19C(3).<br><br>In Article 66(1)(a) the words “, subject to the approval of the Department of Finance”.<br><br>In Article 75(3) the words “or suspension”.<br><br>In Article 79A(2) the words “with the approval of the Department of Finance and Personnel”.<br><br>In Article 80 the words “, with the approval of the Department of Finance,”.<br><br>Part XII.<br><br>Articles 166 to 168.<br><br>Article 174(6).<br><br>In Article 180(2)(b) the words “or other public place”. |
| The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26). | In Part III of Schedule 6, paragraph 170.   |

| Short Title  | Extent of repeal  |
|--|---|
| The Road Traffic (Amendment) (Northern Ireland) Order 1991 (NI 3).                 | In Schedule 2, paragraphs 9 and 10.<br><br>In Part I of Schedule 4, paragraphs 8 and 9.   |
| The Road Traffic (Northern Ireland) Order 1995 (NI 18)                             | In Article 13(2) the definition of “preliminary breath test”.<br><br>Article 13(5).<br><br>In Article 17(8)(b)(i) the words “other than an offence under Article 132, 133, 136 or 137 of that Order”.<br><br>In Article 52(3)(b) the words from “the construction, improvement, maintenance or repair of roads” to the end.<br><br>Article 52(3)(c).  |
| The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10).                  | In Article 10(3)(a), heads(iv), (v) and (vi).<br><br>Article 41(14).<br><br>In Article 50(6), the word “or” at the end of paragraph (a).<br><br>In Article 92(a), the words “Article 132 of that Order or”.<br><br>In Part I of Schedule 1, the entries relating to Articles 13, 14, 132(3), 132(5), 133, 136, 137, 166 and 167 of the Order of 1981.<br><br>In Part I of Schedule 3, paragraphs 14, 15, 16, 17, 18 and 29. |
| The Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2).                  | In Schedule 8, paragraph 25(a).   |
| The Road Traffic (Driving Disqualification) (Northern Ireland) Order 2003 (NI 16). | In Schedule 1, paragraph 6(a)(ii).  |
| The Justice (Northern Ireland) Act 2004 (c. 4).                                    | Section 15.   |

## PART II

### FALSE STATEMENTS, FORGERY ETC.

| Short Title  | Extent of repeal |
|--|------------------|
| The Road Traffic (Northern Ireland) Order 1981 (NI 1). | Article 174(6)   |

| Short Title  | Extent of repeal            |
|--|-----------------------------|
| The Road Traffic (New Drivers) (Northern Ireland) Order 1998 (NI 7)                | In Schedule 3, paragraph 9. |
| The Road Traffic (Driving Disqualification) (Northern Ireland) Order 2003 (NI 16). | In Schedule 1, paragraph 9. |

### PART III

#### GIVING OF FIXED PENALTY NOTICES BY VEHICLE EXAMINERS

| Short Title  | Extent of repeal   |
|--|--|
| The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10).                  | <p>In Article 60(5) the words “he surrenders”.</p> <p>In Article 66(2) the words “fixed penalty clerk must not endorse the”.</p> <p>In Article 78–</p> <p>(a) in paragraph (5) the words “by or on behalf of the Chief Constable” and “such”; and</p> <p>(b) in paragraph (7) the words “by or on behalf of the Chief Constable”.</p> <p>In Article 84(1) the words “constable or authorised”.</p> |
| The Road Traffic (New Drivers) (Northern Ireland) Order 1998 (NI 7).               | <p>In Article 4–</p> <p>(a) in paragraph (4) the words “, the fixed penalty clerk”; and</p> <p>(b) in paragraph (5) the words “by the fixed penalty clerk”.</p>  |
| The Road Traffic (Driving Disqualification) (Northern Ireland) Order 2003 (NI 16). | <p>In Schedule 1–</p> <p>(a) paragraph 19(b);</p> <p>(b) paragraph 26(b); and</p> <p>(c) paragraph 28(b).</p>  |

### PART IV

#### ENDORSEMENT: UNLICENSED AND FOREIGN DRIVERS

| Short Title   | Extent of repeal  |
|---|---|
| The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10). | In Article 50(1) the words “, whether he is at the time the holder of a licence or not,”. |

**PART V**  
**ENDORSEMENT: ALL DRIVERS**

| Short Title  | Extent of repeal   |
|--|--|
| The Road Traffic (Northern Ireland) Order 1981 (NI 1). | <p>In Article 4(8) the words “, counterparts of licences”.</p> <p>In Article 9(7B)(a) and (10) the words “and its counterpart”.</p> <p>In Article 10–</p> <p>(a) in paragraphs (2)(b) and (3) the words “and its counterpart”; and</p> <p>(b) in paragraph (4)(a) the words “and its counterpart”.</p> <p>In Article 13–</p> <p>(a) in head (i) of sub-paragraph (c) of paragraph (1) the words “and its counterpart”;</p> <p>(b) in head (ia) of that sub-paragraph the words from “together” to the end;</p> <p>(c) in head (ii) of that sub-paragraph the words “and its counterpart (if any) issued to him”; and</p> <p>(d) in paragraph (1AA) the words “together with the counterparts mentioned in paragraph (ia)” and the words “and its Great Britain counterpart”.</p> <p>In Article 14(1)(c) the words “or its counterpart”.</p> <p>In Article 15–</p> <p>(a) in paragraph (5) the words “and its counterpart”;</p> <p>(b) paragraph (5)(b);</p> <p>(c) in paragraph (5)(c) the words “or in its counterpart”;</p> <p>(d) in paragraph (6) the words “and its counterpart”;</p> <p>(e) in paragraph (7A) the words “and its counterpart” in both places;</p> <p>(f) in paragraph (8) the words “and its counterpart”.</p> <p>Article 15A(5) and (6).</p> <p>In Article 15B–</p> <p>(a) paragraphs (3), (6) and (8);</p> |

| Short Title | Extent of repeal  |
|-------------|---|
|             | <ul style="list-style-type: none"> <li>(b) in paragraph (11)(b) the words “(6) or”; and</li> <li>(c) paragraph (12).</li> </ul>   |
|             | <p>In Article 15C–</p> <ul style="list-style-type: none"> <li>(a) in paragraphs (1) to (4) the words “and its counterpart (if any)” in each place; and</li> <li>(b) paragraph (5).</li> </ul>   |
|             | <p>In Article 19C(1A)–</p> <ul style="list-style-type: none"> <li>(a) in sub-paragraph (e) the words “and counterparts of licences” and the words “or counterparts of licences”; and</li> <li>(b) sub-paragraph (ea).</li> </ul>  |
|             | <p>In Article 19D–</p> <ul style="list-style-type: none"> <li>(a) in paragraph (1) the definition of “counterpart” and “Great Britain counterpart”; and</li> <li>(b) paragraph (3).</li> </ul>  |
|             | <p>In Article 19G–</p> <ul style="list-style-type: none"> <li>(a) in paragraph (1) the words from “together” to the end;</li> <li>(b) in paragraph (2), in sub-paragraph (a) the words “together with the relevant counterparts” and, in sub-paragraph (b) the words “and those counterparts”; and</li> <li>(c) in paragraph (4) the words “and the relevant counterparts”; and</li> <li>(d) paragraph (5); and</li> <li>(e) in paragraph (7) the words “and its Great Britain counterpart”.</li> </ul> |
|             | <p>In Article 73A(1) the words “and its counterpart (if any)”.</p>  |
|             | <p>In Article 74A the words “and its counterpart (if any)” in both places.</p>  |
|             | <p>In Article 75–</p> <ul style="list-style-type: none"> <li>(a) in paragraph (1) the words “and its counterpart”; and</li> <li>(b) in paragraph (3) the words “and its counterpart”; and</li> <li>(c) paragraph (4).</li> </ul>  |
|             | <p>In Article 78 the definition of “counterpart”.</p>   |
|             | <p>In Article 174–</p> <ul style="list-style-type: none"> <li>(a) in sub-paragraph (a) of paragraph (2A) the words from “or” to the end;</li> </ul>   |

| Short Title  | Extent of repeal  |
|--|---|
|  | <p>(b) paragraph (2A)(b); and</p> <p>(c) paragraph (2B).</p> <p>In Article 180–</p> <p>(a) in paragraph (3B) the words “and its counterpart”;</p> <p>(b) in paragraph (3C) the words “and its counterpart” in each place where it occurs;</p> <p>(c) in paragraph (4AA) the words “and its counterpart” in each place where it occurs;</p> <p>(d) in paragraph (8) the words “or counterpart of any such licences” and the reference to “counterpart”.</p>  |
| <p>The Child Support (Northern Ireland) Order 1991 (NI 23).</p>          | <p>In Article 37A–</p> <p>(a) in paragraph (4) the words from “, and” to the end;</p> <p>(b) in paragraph (9) the words “and its counterpart”.</p>  |
| <p>The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10).</p> | <p>In Article 2–</p> <p>(a) in paragraph (2) the word ““counterpart””; and</p> <p>(b) paragraph (4).</p> <p>In Article 10(3)(a)(ii) the words “and counterpart”.</p> <p>In Article 11 the words from “and the foregoing” to the end.</p> <p>In Article 28 in paragraphs (4), (5) and (6)(b) the words “and its counterpart” and the words “and counterpart”.</p> <p>In Article 29 the words “and its counterpart” in each place.</p> <p>In Article 31(1)(b) the words “the counterpart of any licence held by him or on”.</p> <p>In Article 32–</p> <p>(a) in paragraph (1)(b) the words “the counterpart of his licence or”; and</p> <p>(b) in paragraph (2)(b) the words “on the counterpart of his licence or”.</p> <p>In Article 33(a) the words “the counterpart of his licence or on”.</p> <p>Article 41(10).</p> |

| Short Title | Extent of repeal  |
|-------------|---|
|             | Article 47(7).  |
|             | Article 49(2A).   |
|             | Article 50.   |
|             | In Article 51(2)(b) the words “the counterpart of any licence held by him or on”.                 |
|             | In Article 52–  |
|             | (a) in paragraph (2A) the words “and its counterpart”;  |
|             | (b) in paragraph (3) the words “a licence or”;  |
|             | (c) in paragraph (3A) the words “in relation to a person who is not the holder of a licence”; and |
|             | (d) in paragraph (4) the words “and the counterpart of a licence”.                                |
|             | In Article 53(1)(b) and (2)(b) the words “the counterpart of any licence held by him or on”.      |
|             | In Article 60(7) the words “and a counterpart of a licence”.                                      |
|             | In Article 62 the words “and its counterpart” in each place.                                      |
|             | Article 63.   |
|             | In Article 63A(1) the words “who is not the holder of a licence”.                                 |
|             | Article 64.   |
|             | Article 66.   |
|             | In Article 66A–   |
|             | (a) in the heading the words “to unlicensed person”; and  |
|             | (b) in paragraph (1) the words “but who is not the holder of a licence,”.                         |
|             | In Article 77–  |
|             | (a) paragraph (4);  |
|             | (b) in paragraph (5) the words “63 or”; and   |
|             | (c) paragraph (6).  |
|             | In Article 80–  |
|             | (a) paragraph (5); and  |
|             | (b) in paragraph (5A) the words “who is not the holder of a licence”.                             |

| Short Title | Extent of repeal   |
|-------------|--|
|             | <p>In Article 81–</p> <ul style="list-style-type: none"> <li>(a) in sub-paragraph (a) of paragraph (3) the words “inspecting the licence and its counterpart or (where the alleged offender is not the holder of a licence)”; and</li> <li>(b) in sub-paragraph (b) of that paragraph the words “and its counterpart”.</li> </ul>  |
|             | <p>Article 82.</p>   |
|             | <p>In Article 82A(1) and (2) the words “who is not the holder of a licence”.</p>   |
|             | <p>In Article 87–</p> <ul style="list-style-type: none"> <li>(a) paragraph (1);</li> <li>(b) in paragraph (1A) the word “also”; and</li> <li>(c) in paragraph (2) the words “63 or” and the words “82 or”.</li> </ul>  |
|             | <p>In Article 92ZA–</p> <ul style="list-style-type: none"> <li>(a) in sub-paragraph (b) of paragraph (1) the words “and (6)(b)”;</li> <li>(b) sub-paragraphs (d) to (i) of that paragraph;</li> <li>(c) in sub-paragraph (j) of that paragraph the words “, (3) and (3A)”;</li> <li>(d) sub-paragraph (k) of that paragraph;</li> <li>(e) paragraphs (3) to (6);</li> <li>(f) in paragraph (7) the words “and its counterpart (if any)”;</li> <li>(g) in paragraph (8) the words “and its counterpart”.</li> </ul> |
|             | <p>Art 92ZB.</p>   |
|             | <p>In Article 92A–</p> <ul style="list-style-type: none"> <li>(a) in paragraph (1) the words from “, 29” to “and 53”;</li> <li>(b) paragraphs (2) to (4);</li> <li>(c) in paragraph (5) the words “and its counterpart (if any)”;</li> <li>(d) paragraphs (6) and (8) to (10).</li> </ul>  |
|             | <p>Article 92B.</p>  |
|             | <p>In Part I of Schedule 1–</p> <ul style="list-style-type: none"> <li>(a) in the entry relating to Article 9(10) of the Order of 1981, the words “and counterpart”;</li> <li>(b) in the entry relating to Article 10(3) of that Order, the words “and counterpart”;</li> </ul>  |



| Short Title  | Extent of repeal   |
|--|--|
| The Road Traffic (New Drivers) (Northern Ireland) Order 1998 (NI 7)                | <ul style="list-style-type: none"> <li>(c) in the entry relating to Article 15(7) of that Order, the words “and its counterpart” and the words “and counterpart”;</li> <li>(d) in the entry relating to Article 15C(4) of that Order, the words “and its counterpart”;</li> <li>(e) in the entry relating to Article 75 of that Order, the words “and its counterpart”;</li> <li>(f) in the entry relating to Article 28 of the Offenders Order, the words “and counterpart”; and</li> <li>(g) in the entry relating to Article 29 of the that Order, the words “and counterpart”.</li> </ul> <p>In Schedule 3, paragraph 9(a).</p> <p>In Article 4–</p> <ul style="list-style-type: none"> <li>(a) in paragraph (3)(c) the words “appropriate person endorses the number of”; and</li> <li>(b) in paragraph (4)(a) the words “and its counterpart”.</li> </ul> <p>In Article 12(2) the words “and its counterpart” in both places.</p> <p>In Schedule 1–</p> <ul style="list-style-type: none"> <li>(a) in paragraph 3(2) the words “and its counterpart”;</li> <li>(b) in paragraph 3(4)(a) the words “(with its counterpart)”;</li> <li>(c) in paragraph 7(4)(a) the words “and its counterpart”; and</li> <li>(d) in paragraph 8(1)(a) the words “and its counterpart”.</li> </ul> |
| The Road Traffic (Driving Disqualification) (Northern Ireland) Order 2003 (NI 16). | <p>In Schedule 3, paragraph 8.</p> <p>In Schedule 1–</p> <ul style="list-style-type: none"> <li>(a) paragraph 6(a)(iii);</li> <li>(b) paragraph 7;</li> <li>(c) paragraph 8(b);</li> <li>(d) paragraph 12(a).</li> </ul>   |
| The Road Traffic (Northern Ireland) Order 2007 (NI )                               | <p>Article 15.</p> <p>Article 39(2)(b) and (4).</p> <p>In Article 46(5) the words “and “counterpart”, in relation to a Community licence”.</p> <p>In Article 47 the words “and counterpart”.</p>   |

| Short Title | Extent of repeal   |
|-------------|--|
|             | In Article 53(13) in paragraph (c) of the definition of “disabled person’s limited driving licence” the words “and a counterpart of that licence”.   |
|             | <p>In Schedule 2–</p> <ul style="list-style-type: none"> <li>(a) paragraph 4(d) to (g);</li> <li>(b) paragraph 6;</li> <li>(c) paragraph 7;</li> <li>(d) paragraph 14(b);</li> <li>(e) paragraph 16(c);</li> <li>(f) paragraph 18;</li> <li>(g) paragraph 21(b);</li> <li>(h) in paragraph 23(a)(ii) the word “(c)”; and</li> <li>(i) paragraph 24(a).</li> </ul>  |
|             | <p>In Schedule 4–</p> <ul style="list-style-type: none"> <li>(a) paragraph 7(a), (b) and (d);</li> <li>(b) paragraph 8;</li> <li>(c) paragraph 13(b), (c) and (d);</li> <li>(d) paragraph 14;</li> <li>(e) paragraph 15;</li> <li>(f) paragraph 17;</li> <li>(g) paragraph 21 (a) to (c) and (f);</li> <li>(h) paragraph 22(b);</li> <li>(i) paragraph 23;</li> <li>(j) paragraph 26;</li> <li>(k) paragraph 28; and</li> <li>(l) paragraph 29.</li> </ul> |

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the law relating to road traffic.