

SCHEDULES

SCHEDULE 2

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)”; and
 - (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”;
 - (iii) omit “constable or authorised”;
 - (b) in paragraph (2)—
 - (i) for “constable's” substitute “relevant”;
 - (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)—

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Road Traffic (Northern Ireland) Order 2007 No. 916*

- (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)”.