
STATUTORY INSTRUMENTS

1996 No. 1320

The Road Traffic Offenders (Northern Ireland) Order 1996

PART I

INTRODUCTORY

Title and commencement

1. This Order may be cited as the Road Traffic Offenders (Northern Ireland) Order 1996 and shall come into operation on such day or days as the head of the Department may by order appoint^{F1}.

F1 partly exercised by SRs. 1997/279;336;372

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“clerk of petty sessions” shall be construed in accordance with Article 2(4) of the Magistrates' Courts (Northern Ireland) Order 1981;

[^{F2}“the Department” means the Department of the Environment;]

“disqualified” means disqualified for holding or obtaining a licence;

“licence” means a licence to drive a motor vehicle granted under Part II of the Order of 1981,^{F3} . . .

“offence involving obligatory endorsement” has the meaning given in Article 3;

“offence involving obligatory disqualification” and “offence involving discretionary disqualification” have the meaning given in Article 4;

“the Order of 1981” means the Road Traffic (Northern Ireland) Order 1981;

“the Order of 1995” means the Road Traffic (Northern Ireland) Order 1995;

[^{F4}“the Order of 2007” means the Road Traffic (Northern Ireland) Order 2007;]

“petty sessions district” has the same meaning as in the Magistrates' Courts (Northern Ireland) Order 1981;

“provisional licence” means a licence granted by virtue of Article 13(2) of the Order of 1981;

“the provisions connected with the licensing of drivers” means Articles 3, 4, 11, 12, 24, 27 to 31, 33, 35 to 38 [^{F3} 40 to 53, [^{F5} 92ZA to] and 92B,];

“the Road Traffic Orders” means the Order of 1981, the Order of 1995 [^{F6} this Order ^{F7} . . . the Road Traffic Regulation (Northern Ireland) Order 1997] [^{F8} and the Order of 2007];

Status: Point in time view as at 16/07/2008. This version of this Order contains provisions that are not valid for this point in time.

Changes to legislation: The Road Traffic Offenders (Northern Ireland) Order 1996 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954^{F3} and “Community licence”, “counterpart”^{F5} [EEA State and Great Britain licence] have the same meanings as in Part II of the Order of 1981.]

(3) Except where it is otherwise provided or the context so requires, any expression for whose interpretation provision is made by Part I of the Order of 1995 is to be construed in accordance with that provision.

(4) In this Order—

- (a) any reference to a licence and its counterpart shall, in relation to licences granted before 1st January 1991, be construed as a reference to a licence only, and
- (b) any reference to the counterpart of a licence shall, in relation to such licences, be construed as a reference to the licence itself.

(5) Subject to any express exception, references in this Order to any Part of this Order include a reference to any Schedule to this Order so far as relating to that Part.

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|-----------|---|
| F2 | Art. 2(2): definition of "the Department" inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), Sch. 7 para. 15(a) ; S.R. 2007/454, art. 2 , Sch. SR 1997/241 |
| F3 | SR 1997/241 |
| F4 | Art. 2(2): definition of "the Order of 2007" inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), Sch. 7 para. 15(b) ; S.R. 2007/302, art. 2 , Sch. 2003 NI 16 |
| F5 | 2003 NI 16 |
| F6 | 1997 NI 2 |
| F7 | Word in art. 2(2) in definition of "the Road Traffic Orders" omitted (27.6.2007) by virtue of Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), Sch. 7 para. 15(c)(i) ; S.R. 2007/302, art. 2 , Sch. |
| F8 | Words in art. 2(2) in definition of "the Road Traffic Orders" inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), Sch. 7 para. 15(c)(ii) ; S.R. 2007/302, art. 2 , Sch. |

Meaning of “offence involving obligatory endorsement”

3. For the purposes of this Order, an offence involves obligatory endorsement if it is an offence under a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “obligatory” (without qualification) appears in column 6 (in the case of Part I) or column 3 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions relating to the offence which are satisfied.

Meaning of “offence involving obligatory disqualification” and “offence involving discretionary disqualification”

4.—(1) For the purposes of this Order, an offence involves obligatory disqualification if it is an offence under a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “obligatory” (without qualification) appears in column 5 (in the case of Part I) or column 2 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions or circumstances relating to the offence which are satisfied or obtain.

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(2) For the purposes of this Order, an offence involves discretionary disqualification if it is an offence under a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “discretionary” (without qualification) appears in column 5 (in the case of Part I) or column 2 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions or circumstances relating to the offence which are satisfied or obtain.

VALID FROM 14/12/2010

[^{F9}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.]

F9 [Art. 4A](#) inserted (14.12.2010) by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts. 1(3), [38](#); [S.R. 2010/370](#), [art. 2\(2\)](#), Sch. Pt. II

PART II

TRIAL

Introductory

Requirement of warning etc. of prosecutions for certain offences

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

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

[^{F10}(1A) Section 24 of the Interpretation Act (Northern Ireland) 1954 (service of documents) shall apply in relation to the service of notices required to be served by this Article as if in subsection (1) of that section the word “registering” were omitted.]

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

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

(4) This Article applies to—

- [^{F11}(a) an offence under any of the following provisions of the Road Traffic Regulation (Northern Ireland) Order 1997—
 - (i) Article 7 (temporary traffic regulation) consisting in the contravention of a temporary speed limit under paragraph (3)(b) of that Article,
 - (ii) Article 43 (contravening speed limit);]
- (b) an offence under any of the following provisions of the Order of 1995—
 - (i) Article 10 (dangerous driving),
 - (ii) Article 12 (careless, and inconsiderate, driving),
 - (iii) Article 32 (leaving vehicles in dangerous positions),
 - (iv) Article 42 (dangerous cycling),
 - (v) Article 43 (careless, and inconsiderate, cycling),
 - (vi) Article 49[^{F12} or 50] (contravention of traffic directions or traffic signs);
- (c) an offence consisting of the driving of a vehicle in contravention of any regulation made under the[^{F12} Road Traffic Regulation (Northern Ireland) Order 1997] with respect to traffic signs

(5) The Department may by order, made subject to negative resolution, specify any other offence to which this Article is to apply.

F10 Art. 5(1A) inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 28; S.R. 2007/302, art. 2, Sch.

F11 Art. 5(4)(a) substituted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), Sch. 7 para. 16; S.R. 2007/302, art. 2, Sch.

F12 1997 NI 2

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Modifications etc. (not altering text)

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

Requirement of warning etc: supplementary

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

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

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

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

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

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

- (a) Article 26; or
- (b) section 6(2) of the Criminal Law Act (Northern Ireland) 1967;

but a person is not to be convicted of an offence by virtue of any of those provisions if Article 5 applies to the offence with which he was charged and the requirement of Article 5(1) was not satisfied in relation to the offence charged.

Restriction on institution of proceedings for certain offences

7.—^[F13(1)] Proceedings for an offence under Article 11(3) of the Order of 1981 (notice about relevant or prospective disability) shall not be instituted except by the Department or by a constable acting with the approval of the Department.

^[F13(2)] In paragraph (1) the reference to Article 11(3) of the Order of 1981 includes a reference to that provision as applied by Article 15D^[F14] or 19H] of that Order.]

- F13** SR 1997/241
- F14** 2003 NI 16

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

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

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

Power to join in indictment counts for certain summary offences

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

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

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

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

(3) This Article applies to—

- (a) an offence under either of the following provisions of the Order of 1981—
 - (i) Article 90 (using motor vehicle without insurance or security against third party risks),
 - (ii) Article 175(2) (failure to comply with duties on occurrence of accident caused by a mechanically propelled vehicle);
- (b) an offence under any of the following provisions of the Order of 1995—
 - (i) Article 15(1) or (2) (driving or attempting to drive, or being in charge of, a mechanically propelled vehicle when under influence of drink or drugs),
 - (ii) Article 16(1)(a) or (b) (driving or attempting to drive, or being in charge of, a motor vehicle with alcohol concentration above the prescribed limit),
 - (iii) Article 18 (failing to provide specimen for analysis or laboratory test);
- (c) any summary offence specified under paragraph (4).

(4) The Secretary of State may by order specify for the purposes of this Article any summary offence—

- (a) which is mentioned in Schedule 1, and
- (b) which is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.

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(5) For the purposes of this Article statements in writing admitted in evidence under Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981 shall be treated as depositions taken in the presence of the accused before the magistrates' court which committed him for trial.

(6) An order made under this Article shall be subject to 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 shall apply accordingly.

(7) In this Article “summary offence” means an offence which, if committed by an adult, is punishable only on summary conviction.

Time within which summary proceedings for certain offences must be commenced

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

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

(3) This Article applies to—

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

[^{F15}(iz) Article 9(13) (driving after making false declaration as to physical fitness),]

(i) Article 11(3) (failure to notify Department of onset of, or deterioration in, relevant or prospective disability)[^{F16} and that provision as applied by Article 15D of that Order],

[^{F17}(ia) Article 11(3B) (driving after such a failure),

(ib) Article 11A (driving after refusal of licence under Article 9(3) or revocation under Article 10(1) or (2)),]

(ii) Article 15(7) (driving licence holder failing when his licence is revoked, to surrender it or, when his particulars become incorrect, to surrender the licence and counterpart and give particulars),

[^{F16}(iia) Article 15B(11) (driving after failure to comply with a requirement under Article 15B(6), (7) or (10)),]

(iii) Article 90 (using, etc. motor vehicle without insurance or security against third party risks),

[^{F18}(iiia) Article 168A(1) (applying for or obtaining a driving licence, or driving while disqualified),]

(iv) ^{F19}

(v) ^{F19}

(vi) ^{F19}

(vii) Article 174(1) (making false statements or withholding information in connection with applications for licences, etc.);

(b) an offence under Article 72 of this Order.

[^{F20}(c) an offence under paragraph 3(5) of Schedule 1 to the Road Traffic (New Drivers) (Northern Ireland) Order 1998.]

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- F15** Art. 10(3)(a)(iz) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), **Sch. 7 para. 17(a)**; S.R. 2007/454, **art. 2**, Sch.
- F16** SR 1997/241
- F17** Art. 10(3)(ia)(ib) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), **Sch. 7 para. 17(b)**; S.R. 2007/454, **art. 2**, Sch.
- F18** Art. 10(3)(a)(iiia) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), **Sch. 7 para. 17(c)**; S.R. 2007/454, **art. 2**, Sch.
- F19** Art. 10(3)(a)(iv)(v)(vi) repealed (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(2), **Sch. 8 Pt. I**; S.R. 2007/454, **art. 2**, Sch.
- F20** 1998 NI 7

Modifications etc. (not altering text)

- C4** Art. 10 power to apply conferred (23.4.2012) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, **Sch. 1 para. 8**; S.R. 2012/16, **art. 2**, Sch.
- C5** Art. 10 power to apply conferred by S.I. 1981/154 (N.I. 1), Sch. 2A para. 7 (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), **Sch. 3**)
- C6** Art. 10 applied (1.7.2012) by Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 (c. 2), **ss. 45(2)**, 60(2); S.R. 2012/262, **art. 2**
- C7** Art. 10 applied (prosp.) by Transport Act (Northern Ireland) 2011 (c. 11), **ss. 31(2)**, 48(2)
- C8** Art. 10 applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(b)}

Duty of accused to provide licence

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

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

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

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

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

Trial

Mode of trial

13. An offence against a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or against regulations made under such a provision (the general nature of which offence

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is indicated in column 2) shall be punishable as shown against the offence in column 3 (that is, on summary conviction or on indictment or in either one way or the other).

Evidence by certificate as to driver, user or owner

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

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

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

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

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

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

Modifications etc. (not altering text)

- C9** Art. 14 power to apply conferred (23.4.2012) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, **Sch. 1 para. 8**; S.R. 2012/16, **art. 2**, Sch.
- C10** Art. 14 power to apply conferred by S.I. 1981/154 (N.I. 1), Sch. 2A para. 7 (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), **Sch. 3**)
- C11** Art. 14 applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(c)}

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

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

- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by magistrates' courts rules, that a requirement under Article 177 of that Order^[F21] or Article 14(8) of the Road Traffic Regulation (Northern Ireland) Order 1997] to give information as to the identity of the driver of a particular vehicle on the particular occasion to which the complaint relates has been served on the accused; and

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- (b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of that vehicle on that occasion,

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

F21 1997 NI 2

Modifications etc. (not altering text)

- C12** By Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, **Sch. 1 para. 8** it is provided that in art. 15(1) there is power to apply conferred (23.4.2012); S.R. 2012/16, **art. 2**, **Sch.**
- C13** By S.I. 1981/154 (N.I. 1), **Sch. 2A para. 7** (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), **Sch. 3**) it is provided that in art. 15(1) there is power to apply conferred.
- C14** **Art. 15** applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(d)}

Admissibility of records as evidence

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

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

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

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

[^{F22}(3) In paragraphs (1) and (2)—

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

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

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

(4) In any case where—

- (a) a statement to which this Article applies is produced to a court of summary jurisdiction in any proceedings for an offence involving obligatory or discretionary disqualification,
- (b) the statement specifies an alleged previous conviction of an accused person of any such offence or any order made on the conviction,
- (c) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed by magistrates' courts rules, that not less than 7 days before the statement is so produced a notice was served on the accused, in such form and manner as may be so prescribed, specifying the previous conviction or order and stating that it is proposed to bring it to the notice of the court in the event of or, as the case may be, in view of his conviction, and
- (d) the accused is not present in person before the court when the statement is so produced,

the court may take account of the previous conviction or order as if the accused had appeared and admitted it.

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

F22 1997 NI 21

Use of records kept by operators of goods vehicles

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

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

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

(2) Evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by^[F23] or taken from] the accused shall, in all cases (including cases where the specimen was not provided^[F23] or taken] in connection with the alleged offence) be taken into account; and, subject to paragraph (3), it shall be assumed that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than in the specimen.

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

- (a) that he consumed alcohol before he provided the specimen^[F23] or had it taken from him] and—
 - (i) in relation to an offence under Article 14, after the time of the alleged offence, and
 - (ii) otherwise, after he had ceased to drive, attempt to drive or be in charge of a vehicle on a road or other public place, and
- (b) that had he not done so the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and, if it is alleged that he was unfit to drive through drink, would not have been such as to impair his ability to drive properly.

(4) A specimen of blood shall be disregarded^[F23] unless—

- ^[F23](a) it was taken from the accused with his consent and either—
 - (i) in a police station by a medical practitioner or a registered health care professional; or
 - (ii) elsewhere by a medical practitioner; or
- (b) it was taken from the accused by a medical practitioner under Article 18A of the Order of 1995 and the accused subsequently gave his permission for a laboratory test of the specimen.]

(5) Where, at the time a specimen of blood or urine was provided by the accused, he asked to be provided with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—

- (a) the specimen in which the alcohol or drug was found is one of 2 parts into which the specimen provided by the accused was divided at the time it was provided, and
- (b) the other part was supplied to the accused.

Status: Point in time view as at 16/07/2008. This version of this Order contains provisions that are not valid for this point in time.

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[^{F23}(6) Where a specimen of blood was taken from the accused under Article 18A of the Order of 1995, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—

- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
- (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.]

F23 2005 NI 15

Documentary evidence as to specimens in such proceedings

19.—(1) Evidence of the proportion of alcohol or a drug in a specimen of breath, blood or urine may, subject to paragraphs (3) and (4) and to Article 18(5)[^{F24} and (5A)], be given by the production of a document or documents purporting to be whichever of the following is appropriate, that is to say—

- (a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a constable (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement, and
- (b) a certificate signed by an authorised analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.

(2) Subject to paragraphs (3) and (4); evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner[^{F24} or a registered health care professional] may be given by the production of a document purporting to certify that fact and to be signed by that medical practitioner[^{F24} or a registered health care professional].

(3) Subject to paragraph (4)—

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

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

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

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

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

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

F24 2005 NI 15

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

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

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

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

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

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

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

(3) If in any proceedings for the offence of driving a vehicle on a road, or causing or permitting a vehicle to be so driven, in contravention of a prohibition under Article 79(2) of the Order of 1995 any question arises whether a weight of any description has been reduced to a limit imposed by construction and use requirements, or so that it has ceased to be excessive the burden of proof shall lie on the accused.

Evidence of declaration for obtaining licence

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

Evidence by certificate as to registration of driving instructors and licences to give instruction

22.—(1) A certificate signed by or on behalf of the Department and stating that, on any date—

- (a) a person's name was, or was not, on the register of approved driving instructors;
- (b) the entry of a person's name was made in that register or a person's name was removed from that register;
- (c) a person was, or was not, the holder of a current licence under Article 135 of the Order of 1981 (licences to give driving instruction for payment); or
- (d) a licence under Article 135 of that Order granted to a person came into force or ceased to be in force;

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 or on behalf of the Department shall be deemed to be so signed unless the contrary is proved.

(3) In this Article—

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- (a) “current licence” has the meaning given in Article 133(5) of the Order of 1981; and
- (b) “register of approved driving instructors” means the register maintained by the Department under Article 132 of that Order.

Speeding offences etc: admissibility of certain evidence

23^{F25}—^{F26}(1) Evidence of a fact relevant to proceedings for an offence to which this Article applies may be given by the production of—

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

but subject to the following provisions of this Article.

(2) This Article applies to—

- [^{F27}(az) an offence under Article 7 of the Road Traffic Regulation (Northern Ireland) Order 1997 consisting in the contravention of a temporary speed restriction under paragraph (3)(b) of that Article;]
- (a) an offence under [^{F28} Article 43 of the Road Traffic Regulation (Northern Ireland) Order 1997 (contravening speed limit)];
- (c) an offence under Article [^{F28} 50] of the Order of 1995 consisting in the failure to comply with an indication given in a light signal that vehicular traffic may not proceed;
- (d) an offence under paragraph (4) of Article 20 of the Roads (Northern Ireland) Order 1993 consisting in the contravention of a restriction on the speed of vehicles imposed under that Article.
- [^{F29}(e) an offence under paragraph (4) of Article 20 of the Roads (Northern Ireland) Order 1993 consisting in the contravention of any regulations under that Article relating to the use of the hard shoulder of a motorway.]
- [^{F30}(f) an offence under section 29(1) of the Vehicle Excise and Registration Act 1994 (using or keeping an unlicensed vehicle on a public road).]

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

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

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

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

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

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

may be given by the production of a document which is signed as mentioned in paragraph (1) and which, as the case may be, gives particulars of the measurement or of the circumstances in which

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it was made, or states that the device was of such a type or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied.

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

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

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

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

F25 mod. by SR 1999/435

F26 mod. by SR 2001/375

F27 [Art. 23\(2\)\(az\)](#) inserted (27.6.2007) by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts. 1(3), 5; [S.R. 2007/302](#), [art. 2](#), Sch.

F28 1997 NI 2

F29 SR 1999/435

F30 SR 2001/375

Notification of disability

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

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

Saving as to offence provisions etc.

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

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

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

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Alternative verdicts

26.—(1) Where—

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

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

(1) Offence charged	(2) Alternative
Article 9 (causing death, or grievous bodily injury, by dangerous driving) inconsiderate, driving)	Article 10 (dangerous driving) [^{F31} Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving)] Article 12 (careless, and inconsiderate, driving)
Article 10 (dangerous driving)	Article 12 (careless, and inconsiderate, driving)
[^{F32} Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving)]	[^{F32} Article 12 (careless and inconsiderate driving).]
Article 14 (causing death, or grievous bodily injury, by careless driving when under influence of drink or drugs)	[^{F33} Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving)] Article 12 (careless, and inconsiderate, driving) Article 15(1) (driving when unfit to drive through drink or drugs) Article 16(1)(a) (driving with excess alcohol in breath, blood or urine) Article 18(7) (failing to provide specimen) [^{F34} Article 18A(6) (failing to give permission for laboratory test)]
Article 15(1) (driving or attempting to drive when unfit to drive through drink or drugs)	Article 15(2) (being in charge of a vehicle when unfit to drive through drink or drugs)
Article 16(1)(a) (driving or attempting to drive with excess alcohol in breath, blood or urine)	Article 16(1)(b) (being in charge of a vehicle with excess alcohol in breath, blood or urine)
Article 42 (dangerous cycling)	Article 43 (careless, and inconsiderate, cycling)

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

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

[^{F35}(3A) Where

- (a) a person charged with manslaughter in connection with the driving of a mechanically propelled vehicle by him is found not guilty of that offence, but

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(b) the allegations in the indictment amount to or include an allegation of any of the relevant offences,

he may be convicted of that offence.

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

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

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

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

- F31** Words in art. 26(1) Table inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **52(2)(a)**; S.R. 2008/293, **art. 2**, Sch.
- F32** Words in art. 26(1) Table inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **52(2)(b)**; S.R. 2008/293, **art. 2**, Sch.
- F33** Words in art. 26(1) Table inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **52(2)(c)**; S.R. 2008/293, **art. 2**, Sch.
- F34** Words in art. 26(1) Table inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **63(4)**; S.R. 2008/293, **art. 2**, Sch.
- F35** Art. 26(3A)(3B) inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **64**; S.R. 2008/293, **art. 2**, Sch.

Information as to date of birth and sex

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

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

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

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

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

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

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

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

Interim disqualification

28.—(1) Where a court—

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

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

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

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

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

- (a) require him to produce to the court any licence held by him and its counterpart, and
- (b) retain the licence and counterpart until it deals with him.

(5) If the holder of the licence has not caused it and its counterpart to be delivered, or has not posted them, in accordance with Article 11 and does not produce the licence and counterpart as required under paragraph (4), then he is guilty of an offence.

(6) Paragraph (5) does not apply to a person who—

- (a) satisfies the court that he has applied for a new licence and has not received it, or
- (b) surrenders to the court a current receipt for his licence and its counterpart issued under Article 62, and produces the licence and counterpart to the court immediately on their return.

(7) Where a court makes an order under paragraph (1) in respect of any person, Articles 49(1)^{F36}, 52(2)^{F37} and 92ZA(7) and 92(5) of this Order shall not apply in relation to the order, but—

- (a) the court must send notice of the order to the Department, and
- (b) if the court which deals with the offender determines not to order him to be disqualified under Article 35 or 40, it must send notice of the determination to the Department.

(8) A notice sent by a court to the Department in pursuance of paragraph (7) must be sent in such manner and to such address and contain such particulars as the Department may determine.

(9) Where on any occasion a court deals with an offender—

- (a) for an offence in respect of which an order was made under paragraph (1), or
- (b) for 2 or more offences in respect of any of which such an order was made,

any period of disqualification which is on that occasion imposed under Article 35 or 40 shall be treated as reduced by any period during which he was disqualified by reason only of an order made under paragraph (1) in respect of any of those offences.

(10) Any reference in this Order or in any other statutory provision (including any provision made after this Order) to the length of a period of disqualification shall, unless the context otherwise requires, be construed as a reference to its length before any reduction under this Article.

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F36 SR 1997/241

F37 2003 NI 16

PART III SENTENCE

Introductory

Production of licence

29.—(1) Where a person who is the holder of a licence is convicted of an offence involving obligatory or discretionary disqualification, and a court proposes to make an order disqualifying him or an order under Article 49, the court must, unless it has already received them, require the licence and its counterpart to be produced to it.

(2) If the holder of the licence has not caused it and its counterpart to be delivered, or posted it and its counterpart, in accordance with Article 11 and does not produce it and its counterpart as required under this Article or under Article 8 of the Criminal Justice (Northern Ireland) Order 1980^{F38} or if the holder of the licence does not produce it and its counterpart as required by Article 37A of the Child Support (Northern Ireland) Order 1991, then,] unless he satisfies the court that he has applied for a new licence and has not received it—

- (a) he is guilty of an offence, and
- (b) the licence shall be suspended from the time when its production was required until it and its counterpart are produced to the court and shall, while suspended, be of no effect.

(3) Paragraph (2) does not apply where the holder of the licence—

- (a) has caused a current receipt for the licence and its counterpart issued under Article 62 to be delivered to the clerk of the court before which the proceedings were brought not later than the day before the date appointed for the hearing, or
- (b) has posted such a receipt, at such time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or
- (c) surrenders such a receipt to the court at the hearing,

and produces the licence and its counterpart to the court immediately on their return.

F38 2000 c. 4 (NI)

Penalty points to be attributed to an offence

30.—(1) Where a person is convicted of an offence involving obligatory endorsement, then, subject to the following provisions of this Article, the number of penalty points to be attributed to the offence is—

- (a) the number shown in relation to the offence in the last column of Part I or Part II of Schedule 1, or
- (b) where a range of numbers is shown, a number within that range.

(2) Where a person is convicted of an offence committed by aiding, abetting, counselling or procuring, or inciting to the commission of, an offence involving obligatory disqualification, then,

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subject to the following provisions of this Article, the number of penalty points to be attributed to the offence is 10.

(3) 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 is the number of penalty points to be attributed to the offence for the purposes of Article 63(5) or 82(4).

(4) Where a person is convicted (whether on the same occasion or not) of 2 or more offences committed on the same occasion and involving obligatory endorsement, the total number of penalty points to be attributed to them is the number or highest number that would be attributed on a conviction of one of them (so that if the convictions are on different occasions the number of penalty points to be attributed to the offences on the later occasion or occasions shall be restricted accordingly).

(5) In a case where (apart from this paragraph) paragraph (4) would apply to 2 or more offences, the court may if it thinks fit determine that that paragraph shall not apply to the offences (or, where 3 or more offences are concerned, to any one or more of them).

(6) Where a court makes such a determination it shall state the reasons for the determination in the order of the court.

(7) The Department may by order—

(a) alter a number or range of numbers shown in relation to an offence in the last column of Part I or Part II of Schedule 1 (by substituting one number or range for another, a number for a range, or a range for a number), and

(b) alter the number of penalty points shown in paragraph (2);

and an order under this paragraph may provide for different numbers or ranges of numbers to be shown in relation to the same offence committed in different circumstances.

(8) An order under paragraph (7) shall be made subject to affirmative resolution.

Modifications etc. (not altering text)

C15 Art. 30(2) modified (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 63(1), 94(1), [Sch. 6 para. 32\(a\)](#) (with s. 91(1), [Sch. 13 para. 5](#)); S.I. 2008/2504, [art. 2\(a\)\(f\)\(g\)](#)

Penalty points to be taken into account on conviction

31.—(1) Where a person is convicted of an offence involving obligatory endorsement, the penalty points to be taken into account on that occasion are (subject to paragraph (2))—

(a) any that are to be attributed to the offence or offences of which he is convicted, disregarding any offence in respect of which an order under Article 35 is made, and

(b) any that were on a previous occasion ordered to be endorsed on the counterpart of any licence held by him, unless the offender has since that occasion and before the conviction been disqualified under Article 40.

(2) If any of the offences was committed more than 3 years before another, the penalty points in respect of that offence shall not be added to those in respect of the other.

Penalty points: modification where fixed penalty also in question

32.—(1) Articles 30 and 31 shall have effect subject to this Article in any case where—

(a) a person is convicted of an offence involving obligatory endorsement, and

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- (b) the court is satisfied that the counterpart of his licence has been or is liable to be endorsed under Article 63 or 82 in respect of an offence (referred to in this Article as the “connected offence”) committed on the same occasion as the offence of which he is convicted.
- (2) The number of penalty points to be attributed to the offence of which he is convicted is—
 - (a) the number of penalty points to be attributed to that offence under Article 30 apart from this Article, less
 - (b) the number of penalty points required to be endorsed on the counterpart of his licence under Article 63 or 82 in respect of the connected offence (except so far as they have already been deducted by virtue of this sub-paragraph).

PROSPECTIVE

[^{F39}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—

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- (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.

F39 Arts. 32A-32E inserted (prosp.) by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts. 1(3), **10(3)**

PROSPECTIVE

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.

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(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.

F39 Arts. 32A-32E inserted (prosp.) by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts. 1(3), **10(3)**

PROSPECTIVE

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,

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- (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.

F39 Arts. 32A-32E inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **10(3)**

PROSPECTIVE

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.

F39 Arts. 32A-32E inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **10(3)**

PROSPECTIVE

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.]

F39 Arts. 32A-32E inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **10(3)**

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Court may take particulars endorsed on licence into consideration

33. Where a person is convicted of an offence involving obligatory or discretionary disqualification and his licence and its counterpart are produced to the court—

- (a) any existing endorsement on the counterpart of his licence 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.

Fine and imprisonment

Fine and imprisonment

34.—(1) Where a person is convicted of an offence against a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or regulations made under any such provision, the maximum punishment by way of fine or imprisonment which may be imposed on him is that shown in column 4 against the offence; and (where appropriate) the circumstances or the mode of trial are there specified.

(2) Any reference in column 4 of that Part to a period of years or months is to be construed as a reference to a term of imprisonment of that duration.

Disqualification

Disqualification for certain offences

35.—(1) Where a person is convicted of an offence involving obligatory disqualification, the court must order him to be disqualified for such period not less than 12 months as the court thinks fit unless the court for special reasons thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

[^{F40}(1A) Where a person is convicted of an offence under Article 172A or 172B of the 1981 Order (aggravated vehicle taking) the fact that he did not drive the vehicle in question at any particular time or at all shall not be regarded as a special reason for the purposes of paragraph (1).]

(2) Where a person is convicted of an offence involving discretionary disqualification, and either—

- (a) the penalty points to be taken into account on that occasion number fewer than 12, or
- (b) the offence is not one involving obligatory endorsement,

the court may order him to be disqualified for such period as the court thinks fit.

(3) Where a person convicted of an offence under any of the following provisions of the Order of 1995, that is—

- (a) Article 14 (causing death, or grievous bodily injury, by careless driving when under the influence of drink or drugs),
- (b) Article 15(1) (driving or attempting to drive while unfit),
- (c) Article 16(1)(a) (driving or attempting to drive with excess alcohol),
- (d) Article 18(7) (failing to provide a specimen), where that is an offence involving obligatory disqualification,

[^{F41}(e) Article 18A(6) (failing to allow a specimen to be subjected to laboratory test) where that is an offence involving obligatory disqualification;]

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has within the 10 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 3 years.

This paragraph is subject to Article 96.

(4) Subject to paragraph (3), paragraph (1) shall apply as if the reference to 12 months were a reference to 2 years, in relation to—

- (a) a person convicted of—
 - (i) manslaughter, or
 - (ii) an offence under Article 9 of the Order of 1995 (causing death, or grievous bodily injury, by dangerous driving), or
 - (iii) an offence under Article 14 of that Order (causing death, or grievous bodily injury, by careless driving when under the influence of drink or drugs), and
- (b) a person on whom more than one disqualification for a fixed period of 56 days or more has been imposed within the 3 years immediately preceding the commission of the offence.

[^{F42}(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.]

(5) For the purposes of paragraph (4)(b) there shall be disregarded any disqualification imposed under Article 28 of this Order or Article 8 of the Criminal Justice (Northern Ireland) Order 1980 (offences committed using a motor vehicle) and any disqualification imposed in respect of an offence of stealing a motor vehicle, an offence under section 12 or 24 of the Theft Act (Northern Ireland) 1969, an offence under Article 172 of the Order of 1981, or an attempt to commit such an offence.

(6) The preceding provisions of this Article shall apply in relation to a conviction of an offence committed by aiding, abetting, counselling or procuring, or inciting to the commission of, an offence involving obligatory disqualification as if the offence were an offence involving discretionary disqualification.

(7) This Article is subject to Article 53.

F40 2004 NI 15

F41 2005 NI 15

F42 Art. 35(4A) inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **9(1)**; S.R. 2007/302, **art. 2**, Sch.

Modifications etc. (not altering text)

C16 Art. 35(6) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 94(1), **Sch. 6 para. 32(b)** (with Sch. 13 para. 5); S.I. 2008/2504, **art. 2(a)(f)(g)**

Reduced disqualification period for attendance on courses

36.—(1) This Article applies where—

- (a) a person is convicted of an offence under any of the following provisions of the Order of 1995, namely Article 14 (causing death, or grievous bodily injury, by careless driving when under influence of drink or drugs), Article 15 (driving or being in charge when under influence of drink or drugs), Article 16 (driving or being in charge with excess alcohol) or Article 18 (failing to provide a specimen), and
- (b) the court makes an order under Article 35 of this Order disqualifying him for a period of not less than 12 months.

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(2) Where this Article applies, the court may make an order that the period of disqualification imposed under Article 35 shall be reduced if, by a date specified in the order under this Article, the offender satisfactorily completes a course approved by the Department for the purposes of this Article and specified in the order.

(3) The reduction made by an order under this Article in a period of disqualification imposed under Article 35 shall be a period specified in the order of not less than 3 months and not more than one quarter of the unreduced period (and accordingly where the period imposed under Article 35 is 12 months, the reduced period shall be 9 months).

(4) The court shall not make an order under this Article 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 explained the effect of the order to the offender in ordinary language, and has informed him of the amount of the fees for the course and of the requirement that he must pay them before beginning the course, and
- (d) the offender has agreed that the order should be made.

(5) The date specified in an order under this Article as the latest date for completion of a course must be at least 2 months before the last day of the period of disqualification as reduced by the order.

(6) An order under this Article shall name the petty sessions district in which the offender resides or will reside.

Certificates of completion of courses

37.—(1) An offender shall be regarded for the purposes of Article 36 as having completed a course satisfactorily if (and only if) a certificate that he has done so is received by the clerk of the supervising court before the end of the period of disqualification imposed under Article 35.

(2) If the certificate referred to in paragraph (1) is received by the clerk of the supervising court before the end of the period of disqualification imposed under Article 35 but after the end of the period as it would have been reduced by the order, the order shall have effect as if the reduced period ended with the day on which the certificate is received by the clerk.

(3) The certificate referred to in paragraph (1) shall be a certificate in such form, containing such particulars, and given by such person, as may be prescribed by, or determined in accordance with, regulations made by the Department.

(4) A course organiser shall give the certificate mentioned in paragraph (1) to the offender not later than 14 days after the date specified in the order as the latest date for completion of the course, unless the offender fails to make due payment of the fees for the course, fails to attend the course in accordance with the organiser's reasonable instructions, or fails to comply with any other reasonable requirements of the organiser.

(5) Where a course organiser decides not to give the certificate mentioned in paragraph (1) he shall give written notice of his 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 magistrates' courts rules, apply to the supervising court for a declaration that the course organiser's decision not to give a certificate was contrary to paragraph (4); and if the court grants the application Article 36 shall have effect as if the certificate had been duly received by the clerk of the court.

(7) If 14 days after the date specified in the order as the latest date for completion of the course the course organiser has given neither the certificate mentioned in paragraph (1) nor a notice under

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paragraph (5), the offender may, within such period as may be prescribed by magistrates' courts rules, apply to the supervising court for a declaration that the course organiser is in default; and if the court grants the application Article 36 shall have effect as if the certificate had been duly received by the clerk of the court.

(8) 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.

(9) Where the clerk of a court receives a certificate of the kind referred to in paragraph (1), or a court grants an application under paragraph (6) or (7), the clerk or court 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.

PROSPECTIVE

[^{F43} 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.]

F43 Arts. 36, 37, 37A, 37B, 38 substituted (prosp.) for arts. 36-39 by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 11(1)

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PROSPECTIVE

[^{F44}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.]

F44 Arts. 36, 37, 37A, 37B, 38 substituted (prosp.) for arts. 36-39 by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts. 1(3), **11(1)**

Provisions supplementary to Articles 36 and 37

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

- (a) course organisers shall have regard to any guidance given to them under this paragraph, and
- (b) in determining for the purposes of Article 37(6) whether any instructions or requirements of an organiser were reasonable, a court shall have regard to any guidance given to him under this paragraph.

(2) In Articles 36 and 37 and this Article—

“course organiser”, in relation to a course, means the person who, in accordance with regulations made by the Department, is responsible for giving the certificates mentioned in Article 37(1) in respect of the completion of the course;

Status: Point in time view as at 16/07/2008. This version of this Order contains provisions that are not valid for this point in time.

Changes to legislation: The Road Traffic Offenders (Northern Ireland) Order 1996 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“supervising court”, in relation to an order under Article 36, means a court of summary jurisdiction acting for the petty sessions district named in the order as the district where the offender resides or will reside; and any reference to the clerk of such a court is a reference to the clerk of petty sessions for the petty sessions district for which the court acts.

- (3) Regulations under Article 37 or this Article—
- (a) may include such incidental or supplementary provision as appears to the Department to be necessary or expedient; and
 - (b) shall be subject to negative resolution.

PROSPECTIVE

[^{F45}Reduced disqualification period: alcohol ignition interlock programme orders

38A.—(1) This Article applies where—

- (a) a person is convicted of a relevant drink offence by or before a court,
- (b) he has committed another relevant drink offence at any time during the period of 10 years ending with the date of the conviction
- (c) the court makes an order under Article 35 but does not make an order under Article 36, and
- (d) the period stated by the court as that for which, apart from this Article, he would be disqualified (“the unreduced period”) is not less than 2 years.

(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 or grievous bodily injury 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, or
- (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) Where this Article applies, the court may specify a lesser period of disqualification (“the reduced period”) if it also makes an order (an “alcohol ignition interlock programme order”) requiring the offender to comply with the alcohol ignition interlock conditions.

(4) The difference between the unreduced period and the reduced period shall be a period specified in the order of—

- (a) not less than 12 months, and

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(b) not more than one half of the unreduced period.

(5) If the offender contravenes the alcohol ignition interlock conditions, a further order under Article 35 disqualifying him for the rest of the unreduced period is to be treated as having been made by the court immediately before the contravention.

(6) “The alcohol ignition interlock conditions” are that the offender—

- (a) must participate fully in an approved alcohol ignition interlock programme specified in the order during such part of the unreduced period as is so specified, an
- (b) during the part of that period following the reduced period, must not drive a motor vehicle unless it is fitted with an alcohol ignition interlock in good working order and must not drive a motor vehicle which is so fitted when not using the alcohol ignition interlock properly.

(7) A court shall not make an alcohol ignition interlock programme order in the case of an offender unless—

- (a) the court is satisfied that a place on the approved alcohol ignition interlock programme 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 the amount of the fees which he is required to pay for the programme and when he must pay them, and
- (d) the offender has agreed that the order should be made.

(8) For the purposes of this Article an “approved alcohol ignition interlock programme” is a programme approved by the Department and involving the provision of an alcohol ignition interlock for use by the offender, training in its use and other education and counselling relating to the consumption of alcohol and driving.

(9) For the purposes of this Article “alcohol ignition interlock” means a device—

- (a) of a type approved by the Department, and
- (b) designed to be fitted to a motor vehicle with the purpose of preventing the driving of the vehicle by a person who does not, both before starting driving the vehicle and at regular intervals while driving it, provide specimens of breath in which the proportion of alcohol is likely not to exceed the limit specified in paragraph (10).

(10) That limit is 9 microgrammes of alcohol in 100 millilitres of breath or such other proportion of alcohol to breath as the Department may by regulations prescribe.

(11) For the purposes of this Article an offender uses an alcohol ignition interlock properly if (and only if) he is complying with all the instructions given to him about its use as part of the approved alcohol ignition interlock programme.

(12) Where an alcohol ignition interlock is fitted to a motor vehicle as part of an approved alcohol ignition interlock programme relating to an offender, a person commits an offence if—

- (a) he interferes with the alcohol ignition interlock with intent to cause it not to function or not to function properly, or
- (b) he is a person other than the offender and provides or attempts to provide a specimen of breath for the purposes of the alcohol ignition interlock with intent to enable the driving (or continued driving) of the vehicle by the offender

F45 Arts. 38A-38E inserted (prosp.) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), **60(1)** (with art. 61)

PROSPECTIVE

Certificates of failing fully to participate

38B.—(1) An offender shall be regarded for the purposes of Article 38A as not fully participating in an approved alcohol ignition interlock programme if (and only if) a certificate that that is so is received by the proper officer of the supervising court.

(2) A certificate under paragraph (1) may be given if (and only if) the offender has failed—

- (a) to make due payment of fees for the programme,
- (b) to attend for training, education or counselling forming part of the programme in accordance with the programme provider's reasonable instructions,
- (c) to attend at a place specified by the programme provider for the monitoring and maintenance of the alcohol ignition interlock, at a time specified by the programme provider or a person with whom the programme provider has made arrangements for its monitoring and maintenance, or
- (d) to comply with any other reasonable requirement of the programme provider.

(3) A certificate under paragraph (1) is to be given by the programme 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 programme provider decides to give a certificate under paragraph (1), he shall give written notice of the decision to the offender as soon as possible.

(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 programme provider has given the certificate under paragraph (1) in contravention of paragraph (2).

(6) If the court grants the application, Article 38A shall have effect as if the certificate had not been duly received by the proper officer of the supervising court.

(7) 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.

(8) Where the proper officer of a court receives a certificate under paragraph (1), or a court grants an application under paragraph (5), the proper officer or court 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

F45 Arts. 38A-38E inserted (prosp.) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), **60(1)** (with art. 61)

PROSPECTIVE

Approval of programmes

38C.—(1) If an application is made to the Department for the approval of a programme for the purposes of Article 38A, the Department must decide whether to grant or refuse the application.

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

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- (a) the nature of the programme, and
 - (b) whether the programme provider is an appropriate person to provide the programme 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 programme may be approved subject to conditions specified by the Department.
 - (4) An approval of a programme 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 programmes 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 of approvals, (or of both) of fees of such amounts as are prescribed by the regulations,
 - (c) specifying the maximum fees that a person may be required to pay for a programme and by when they are to be paid,
 - (d) for the monitoring of programmes and programme 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 programmes and programme providers.

F45 Arts. 38A-38E inserted (prosp.) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), **60(1)** (with art. 61)

PROSPECTIVE

Programmes in Great Britain

38D.—(1) The Department may enter into arrangements with persons in Great Britain who provide programmes which are approved programmes within the meaning of section 34D(8) of the Road Traffic Offenders Act 1988 for the purpose of treating those programmes as approved programmes within the meaning of Articles 38A to 38E of this Order, and in this Article such programmes in respect of which such arrangements have been entered into are referred to as “recognised programmes”

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

- (3) A court—
 - (a) may treat recognised programmes as approved programmes for the purposes of Article 38A,
 - (b) may treat any certificates received from programme providers of recognised programmes as certificates received from programme providers of approved programmes for the purposes of Article 38B.

Status: Point in time view as at 16/07/2008. This version of this Order contains provisions that are not valid for this point in time.

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(4) Where a court has made an order in respect of a person under Article 38A, that person may apply to the court to vary the order by substituting a recognised programme for the programme specified in the order, and if the court grants that application, it shall vary the order accordingly.

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

F45 Arts. 38A-38E inserted (prosp.) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **60(1)** (with art. 61)

PROSPECTIVE

Provisions supplementary to Articles 38A to 38D

38E.—(1) The Department may issue guidance to programme providers, or to any category of programme provider, as to the conduct of programmes approved for the purposes of Article 38A; and—

- (a) programme providers shall have regard to any guidance given to them under this paragraph, and
 - (b) in determining for the purposes of Article 38B whether any instructions or requirements of a programme 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 38A(1)(b) by substituting for the period for the time being specified there a different period,
 - (b) amending Article 38A(1)(d) by substituting for the period for the time being specified there a different period, or
 - (c) amending Article 38A(4) 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).

(3) In Articles 38A to 38D and this Article—

“contravention” includes failure to comply;

“programme provider”, in relation to an alcohol ignition interlock programme, means the person by whom it is, or is to be, provided;

“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, an
- (b) otherwise, the chief clerk;

“relevant local court”, in relation to an alcohol ignition interlock programme order 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 alcohol ignition interlock programme order, means—

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Changes to legislation: *The Road Traffic Offenders (Northern Ireland) Order 1996 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) if the Crown Court made the order, the Crown Court; and
 - (b) otherwise a magistrates' court acting for the same petty sessions district as the court which made the order.
- (4) Regulations under Article 38A, 38B, 38C or 38D or this Article may include such incidental or supplementary provision as appears to the Department to be necessary or expedient.
- (5) Regulations under Article 38A, 38B, 38C or 38D shall be subject to negative resolution.
- (6) No regulations shall be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.]

F45 Arts. 38A-38E inserted (prosp.) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), **60(1)** (with art. 61)

Experimental period for Article 36

39^{F46}.—(1) Subject to the following provisions, no order shall be made under Article 36 after the end of 2000 or such later time as may be specified in an order made by the Department.

(2) At any time before the restriction imposed by paragraph (1) has taken effect, the Department may by order provide that it shall not do so.

(3) In this Article “the experimental period” means the period beginning when Articles 36 to 38 come into operation and ending—

- (a) when the restriction imposed by paragraph (1) takes effect, or
 - (b) if the Department makes an order under paragraph (2), on a date specified in the order (being a date falling before the time when the restriction imposed by paragraph (1) would otherwise have taken effect).
- (4) During the experimental period—
- (a) no order shall be made under Article 36 by virtue of a person's conviction under Article 14 of the Order of 1995, and
 - (b) no order shall be made under Article 36 except by a court of summary jurisdiction acting for a petty sessions district which is for the time being designated for the purposes of this Article.

(5) In relation to orders made under Article 36 during the experimental period, that Article shall have effect with the omission of paragraph (6) and Article 37 shall have effect as if references to the supervising court were references to the court which made the order.

(6) The power to designate a district for the purposes of this Article shall be exercisable by the Lord Chancellor by order, and includes power to revoke any designation previously made.

- (7) An order under paragraph (6)—
- (a) shall specify the period for which a district is designated, and
 - (b) may extend or abridge any period previously specified.

(8) The power to make an order under paragraph (1) shall not be exercisable after the end of 2000, and no more than one order may be made under that paragraph.

(9) Any order made by the Department under this Article shall be subject to affirmative resolution.

(10) Any order made by the Lord Chancellor under paragraph (6) 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 shall apply accordingly.

F46 mod. by SR 2000/395

Disqualification for repeated offences

40.—(1) Where—

- (a) a person is convicted of an offence to which this paragraph applies, and
- (b) the penalty points to be taken into account on that occasion number 12 or more,

the court must order him to be disqualified for not less than the minimum period unless the court is satisfied, having regard to all the circumstances, that there are grounds for mitigating the normal consequences of the conviction and thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

(2) Paragraph (1) applies to—

- (a) an offence involving discretionary disqualification and obligatory endorsement, and
- (b) an offence involving obligatory disqualification in respect of which no order is made under Article 35.

(3) The minimum period referred to in paragraph (1) is—

- (a) 6 months if no previous disqualification imposed on the offender is to be taken into account, and
- (b) one year if one, and 2 years if more than one, such disqualification is to be taken into account,

and a previous disqualification imposed on an offender is to be taken into account if it was for a fixed period of 56 days or more and was imposed within the 3 years immediately preceding the commission of the latest offence in respect of which penalty points are taken into account under Article 31.

(4) Where an offender is convicted on the same occasion of more than one offence to which paragraph (1) applies—

- (a) not more than one disqualification shall be imposed on him under paragraph (1),
- (b) in determining the period of the disqualification the court must take into account all the offences, and
- (c) for the purposes of any appeal any disqualification imposed under paragraph (1) shall be treated as an order made on the conviction of each of the offences.

(5) No account is to be taken under paragraph (1) of any of the following circumstances—

- (a) any circumstances that are alleged to make the offence or any of the offences not a serious one,
- (b) hardship, other than exceptional hardship, or
- (c) any circumstances which, within the 3 years immediately preceding the conviction, have been taken into account under that paragraph in ordering the offender to be disqualified for a shorter period or not ordering him to be disqualified.

(6) References in this Article to a disqualification do not include a disqualification imposed under Article 28 of this Order or Article 8 of the Criminal Justice (Northern Ireland) Order 1980 (disqualification where vehicle used for commission of offence) or a disqualification imposed in respect of an offence of stealing a motor vehicle, an offence under section 12 or 24 of the Theft Act (Northern Ireland) 1969, an offence under Article 172 of the Order of 1981, or an attempt to commit such an offence.

Status: Point in time view as at 16/07/2008. This version of this Order contains provisions that are not valid for this point in time.

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(7) The preceding provisions of this Article shall apply in relation to a conviction of an offence committed by aiding, abetting, counselling, procuring, or inciting to the commission of, an offence involving obligatory disqualification as if the offence were an offence involving discretionary disqualification.

(8) This Article is subject to Article 53.

Modifications etc. (not altering text)

C17 Art. 40(7) modified (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 63(1), 94(1), [Sch. 6 para. 32\(c\)](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)\(f\)\(g\)](#)

PROSPECTIVE

[^{F47}Extension of disqualification where custodial sentence also imposed

40A.—(1) This Article applies where a person is convicted of an offence for which the court—

- (a) imposes a custodial sentence, and
- (b) orders the person to be disqualified under Article 35 or 40.

(2) The order under Article 35 or 40 must provide for the person to be disqualified for the appropriate extension period, in addition to the discretionary disqualification period.

(3) The discretionary disqualification period is the period for which, in the absence of this Article, the court would have disqualified the person under Article 35 or 40.

(4) The appropriate extension period is—

- (a) where a court imposes a sentence under Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (punishment of grave crimes: indeterminate sentences), a period equal to the period specified in the sentence under Article 45(2) of that Order less any relevant discount;
- (b) where an order under Article 5(1) of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) (determination of tariffs) is made in relation to the custodial sentence, a period equal to the part of the sentence specified in that order less any relevant discount;
- (c) where Article 8(1) of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) (sentence for a determinate term) applies in relation to the custodial sentence, a period equal to the custodial period specified pursuant to Article 8(2) of that Order less any relevant discount;
- (d) where a court imposes a sentence under Article 13(3) of the Criminal Justice (Northern Ireland) Order 2008 (indeterminate custodial sentences for serious offences), a period equal to the period specified pursuant to Article 13(3)(b) of that Order less any relevant discount;
- (e) where Article 14(3) of the Criminal Justice (Northern Ireland) Order 2008 (extended custodial sentences for certain offences where the offender is aged over 21) applies in relation to the custodial sentence, a period equal to half of the term imposed pursuant to Article 14(3)(a) of that Order calculated after that term has been reduced by any relevant discount;
- (f) where Article 14(5) of the Criminal Justice (Northern Ireland) Order 2008 (extended custodial sentences for certain offences where the offender is aged under 21) applies in relation to the custodial sentence, a period equal to half of the term imposed pursuant to

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Article 14(5)(a) of that Order calculated after that term has been reduced by any relevant discount;

(g) in any other case, a period equal to half the custodial sentence imposed calculated after that sentence has been reduced by any relevant discount.

(5) If a period determined under paragraph (4) includes a fraction of a day, that period is to be rounded up to the nearest number of whole days.

(6) The “relevant discount” is the number of days by which the custodial sentence is treated as reduced by virtue of section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (periods in custody before sentence passed etc).

(7) This Article does not apply where—

- (a) the custodial sentence was a suspended sentence, or
- (b) the court has made an order under Article 5(3) of the Life Sentences (Northern Ireland) Order 2001 (life sentence: no early release) in relation to the custodial sentence.

(8) Paragraph (9) applies where an amending order provides that the proportion of a prisoner's sentence referred to in Article 18(2)(b) of the Criminal Justice (Northern Ireland) Order 2008 (duty to release prisoners serving extended custodial sentences) is to be read as a reference to another proportion (“the new proportion”).

(9) The Secretary of State may by order provide that the proportion specified in paragraph (4) (e) and (f) of this Article is to be read, in the case of a custodial sentence to which the amending order applies, as a reference to the new proportion.

(10) An order under paragraph (9) is subject to annulment by a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (instruments subject to annulment by resolution of either House of Parliament) applies accordingly.

(11) In this Article—

“amending order” means an order under Article 18(9) of the Criminal Justice (Northern Ireland) Order 2008 (alteration by order of relevant part of sentence);

“custodial sentence” has the meaning given by Article 4 of the Criminal Justice (Northern Ireland) Order 2008;

“suspended sentence” means a suspended sentence or order for detention under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968.

F47 Arts. 40A-40B inserted (prosp.) by Coroners and Justice Act 2009 (c. 25), ss. 137, 182(5), Sch. 16 para. 4 (with transitional, transitory and savings in s. 180, Sch. 22 para. 29)

PROSPECTIVE

Effect of custodial sentence in other cases

40B.—(1) This Article applies where a person is convicted of an offence for which a court proposes to order the person to be disqualified under Article 35 or 40 and—

- (a) the court proposes to impose on the person a custodial sentence (other than a suspended sentence) for another offence, or
- (b) at the time of sentencing for the offence, a custodial sentence imposed on the person on an earlier occasion has not expired.

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(2) In determining the period for which the person is to be disqualified under Article 35 or 40, the court must have regard to the consideration in paragraph (3) if and to the extent that it is appropriate to do so.

(3) The consideration is the diminished effect of disqualification as a distinct punishment if the person who is disqualified is also detained in pursuance of a custodial sentence.

(4) If the court proposes to order the person to be disqualified under Article 35 or 40 and to impose a custodial sentence for the same offence, the court may not in relation to that disqualification take that custodial sentence into account for the purposes of paragraph (2).

(5) In this Article “custodial sentence” and “suspended sentence” have the same meaning as in Article 40A.]

F47 Arts. 40A-40B inserted (prosp.) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 137, 182(5), [Sch. 16 para. 4](#) (with transitional, transitory and savings in [s. 180](#), [Sch. 22 para. 29](#))

Disqualification until test is passed

41.—(1) Where this paragraph applies to a person the court must order him to be disqualified until he passes the appropriate driving test.

(2) Paragraph (1) applies to a person who is disqualified under Article 35 on conviction of—

- (a) manslaughter by the driver of a motor vehicle, or
- (b) an offence under Article 9 of the Order of 1995 (causing death, or grievous bodily injury, by dangerous driving) or Article 10 of that Order (dangerous driving).

(3) Paragraph (1) also applies—

- (a) to a person who is disqualified under Article 35 or 40 [^{F48}for such period, in such circumstances or for such period and in such circumstances] as the Department may by order prescribe, or
- (b) to such other persons convicted of such offences involving obligatory endorsement as may be so prescribed.

(4) Where a person to whom paragraph (1) does not apply is convicted of an offence involving obligatory endorsement, the court may order him to be disqualified until he passes the appropriate driving test (whether or not he has previously passed any test).

(5) In this Article—

[^{F49}“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,]

“extended driving test” means a test of competence to drive prescribed by the Department by order for the purposes of this Article, and

“test of competence to drive” means a test prescribed by virtue of Article 5(3) of the Order of 1981.

(6) In determining whether to make an order under paragraph (4), the court shall have regard to the safety of road users.

(7) Where a person is disqualified until he passes the extended driving test—

- (a) any earlier order under this Article shall cease to have effect, and
- (b) a court shall not make a further order under this Article while he is so disqualified.

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(8) Subject to paragraph (9), a disqualification by virtue of an order under this Article shall be deemed to have expired on production to the Department of evidence, in such form as may be prescribed by regulations [^{F50}made by the Department], that the person disqualified has passed the test in question since the order was made.

(9) A disqualification shall be deemed to have expired only in relation to vehicles of such classes as may be prescribed in relation to the test passed by regulations [^{F51}made by the Department].

(10) Where there is issued to a person a licence on the counterpart of which are endorsed particulars of a disqualification under this Article, there shall also be endorsed the particulars of any test of competence to drive that he has passed since the order of disqualification was made.

(11) For the purposes of an order under this Article, a person shall be treated as having passed a test of competence to drive other than an extended driving test if he passes a corresponding test conducted—

- (a) under the law of Great Britain, the Isle of Man, any of the Channel Islands, another [^{F52}EEA State], Gibraltar or a designated country or territory^{F52}. . . , or
- (b) for the purposes of obtaining a British Forces licence (as defined by Article 4(10) of [^{F52}the Order of 1981]),

and accordingly paragraphs (8) to (10) shall apply in relation to such a test as they apply in relation to a test prescribed by virtue of Article 5(3) of that Order.

[^{F53}(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.]

(12) This Article is subject to Article 53.

(13) An order under paragraph (3) or an order under paragraph (5) prescribing an offence for the purposes of paragraph (a)(i) of the definition of “appropriate driving test” shall be subject to affirmative resolution [^{F54}and all other regulations under this Article shall be subject to negative resolution].

(14) ^{F55}

<p>F48 Words in art. 41(3)(a) substituted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 27(2); S.R. 2007/454, art. 2, Sch.</p> <p>F49 Art. 41(5): definition of "appropriate driving test" substituted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 27(3); S.R. 2007/454, art. 2, Sch.</p> <p>F50 Words in art. 41(8) substituted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 27(4); S.R. 2007/454, art. 2, Sch.</p> <p>F51 Words in art. 41(9) substituted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 27(5); S.R. 2007/454, art. 2, Sch.</p> <p>F52 SR 1997/241</p> <p>F53 Art. 41(11A) substituted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(2), Sch. 7 para. 19; S.R. 2007/454, art. 2, Sch.</p> <p>F54 Words in art. 41(13) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 27(6); S.R. 2007/454, art. 2, Sch.</p> <p>F55 Art. 41(14) repealed (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 27(7), 86(2), Sch. 8 Pt. I; S.R. 2007/454, art. 2, Sch.</p>
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Effect of order of disqualification

42.—(1) Where the holder of a licence is disqualified by an order of a court, the licence shall be treated as being revoked with effect from the beginning of the period of disqualification.

(2) Where—

- (a) the disqualification is for a fixed period shorter than 56 days in respect of an offence involving obligatory endorsement, or
- (b) the order is made under Article 28,

paragraph (1) shall not prevent the licence from again having effect at the end of the period of disqualification.

(3) Where the holder of the licence appeals against the order and the disqualification is suspended under Article 44, the period of disqualification shall be treated for the purpose of paragraph (1) as beginning on the day on which the disqualification ceases to be suspended.

(4) Notwithstanding anything in Part II of the Order of 1981, a person disqualified by an order of a court under Article 41 is (unless he is also disqualified otherwise than by virtue of such an order) [^{F56}entitled to apply for, obtain and to hold a provisional licence] and to drive a motor vehicle in accordance with the conditions subject to which the provisional licence is granted.

F56 Words in art. 42(4) substituted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), Sch. 7 para. 20; S.R. 2007/454, art. 2, Sch.

Appeal against disqualification

43. A person disqualified by an order of a court under Article 28, 35, 40 or 41(4) may appeal against the order in the same manner as against a conviction.

Suspension of disqualification pending appeal

44.—(1) Any court (whether a court of summary jurisdiction or another) which makes an order disqualifying a person may, if it thinks fit, suspend the disqualification pending an appeal against the order.

(2) Where a court exercises its power under paragraph (1), it must send notice of the suspension to the Department.

(3) The notice must be sent in such manner and to such address and must contain such particulars as the Department may determine.

Power of appellate courts to suspend disqualification

45.—(1) This Article applies where a person has been convicted by or before a court of an offence involving obligatory or discretionary disqualification and has been ordered to be disqualified; and in the following provisions of this Article—

- (a) any reference to a person ordered to be disqualified is to be construed as a reference to a person so convicted and so ordered to be disqualified, and
- (b) any reference to his sentence includes a reference to the order of disqualification and to any other order made on his conviction and, accordingly, any reference to an appeal against his sentence includes a reference to an appeal against any order forming part of his sentence.

(2) Where a person ordered to be disqualified—

- (a) appeals to the county court, or
- (b) appeals or applies for leave to appeal to the Court of Appeal,

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against his conviction or his sentence, the county court or, as the case may require, the Court of Appeal may, if it thinks fit, suspend the disqualification.

(3) Where a person ordered to be disqualified has appealed or applied for leave to appeal to the^{F57} House of Lords under section 41 of the Judicature (Northern Ireland) Act 1978 from any decision of the High Court or the Court of Appeal which is material to his conviction or sentence, the High Court or, as the case may require, the Court of Appeal may, if it thinks fit, suspend the disqualification.

(4) Where a person ordered to be disqualified makes an application in respect of the decision of the court in question under Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (statement of case by magistrates' court) or under Article 61 of the County Courts (Northern Ireland) Order 1980 (statement of case by county court) the Court of Appeal may, if it thinks fit, suspend the disqualification.

(5) Where a person ordered to be disqualified—

(a) applies to the High Court for an order of certiorari to remove into the High Court any proceedings of a county court or a court of summary jurisdiction, being proceedings in or in consequence of which he was convicted or his sentence was passed, or

(b) applies to the High Court for leave to make such an application,

the High Court may, if it thinks fit, suspend the disqualification.

(6) Any power of a court under the preceding provisions of this Article to suspend the disqualification of any person is a power to do so on such terms as the court thinks fit.

(7) Where, by virtue of this Article, a court suspends the disqualification of any person, it must send notice of the suspension to the Department.

(8) The notice must be sent in such manner and to such address and must contain such particulars as the Department may determine.

F57 prosp. subst. by 2005 c. 4

Suspension of disqualification pending determination of applications under Article 37

46.—(1) Where a person makes an application to a court under Article 37, the court may suspend the disqualification to which the application relates pending the determination of the application.

(2) Where a court exercises its power under paragraph (1) it must send notice of the suspension to the Department.

(3) The notice must be sent in such manner and to such address, and must contain such particulars, as the Department may determine.

PROSPECTIVE

[^{F58}Suspension of certificate pending determination of applications under Article 38B

46A.—(1) Where a person in respect of whom a certificate is given under paragraph (1) of Article 38B makes an application to a court under paragraph (5) of that Article, the court may suspend the effect of the certificate pending the determination of the application.

(2) Where a court exercises its power under paragraph (1) it must send notice of the suspension to the Department.

(3) The notice must be sent in such manner, and to such address and must contain such particulars, as the Department may determine.]

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F58 Art. 46A inserted (prosp.) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), **60(2)**

Removal of disqualification

47.—(1) Subject to the provisions of this Article, a person who by an order of a court is disqualified may apply to the court by which the order was made to remove the disqualification.

(2) On any such application the court may, as it thinks proper having regard to—

- (a) the character of the person disqualified and his conduct subsequent to the order,
- (b) the nature of the offence, and
- (c) any other circumstances of the case,

either by order remove the disqualification as from such date as may be specified in the order or refuse the application.

(3) No application shall be made under paragraph (1) for the removal of a disqualification before the expiration of whichever is relevant of the following periods from the date of the order by which the disqualification was imposed, that is—

- (a) 2 years, if the disqualification is for less than 4 years,
- (b) one half of the period of disqualification, if it is for less than 10 years but not less than 4 years,
- (c) 5 years in any other case;

and in determining the expiration of the period after which under this paragraph a person may apply for the removal of a disqualification, any time after the conviction during which the disqualification was suspended or he was not disqualified shall be disregarded.

(4) Where an application under paragraph (1) is refused, a further application under that paragraph shall not be entertained if made within 3 months after the date of the refusal.

(5) An application under paragraph (1) shall not be heard except after notice, setting forth the grounds of the application, has been given to the superintendent or chief superintendent of the Royal Ulster Constabulary acting for the division for which the convicting court acts.

(6) If under this Article a court orders a disqualification to be removed, the court—

- (a) must cause particulars of the order to be endorsed on the counterpart of the licence, if any, previously held by the applicant, and
- (b) may in any case order the applicant to pay the whole or any part of the costs of the application.

(7) Paragraph (6)(a) shall apply only where the disqualification was imposed in respect of an offence involving obligatory endorsement; and in any other case the court must send notice of the order made under this Article to the Department.

(8) A notice under paragraph (7) must be sent in such manner and to such address, and must contain such particulars, as the Department may determine.

(9) The preceding provisions of this Article shall not apply where the disqualification was imposed by order under Article 41(1).

Modifications etc. (not altering text)

C18 Art. 47(6) applied (with modifications) (16.7.2008) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), **91(5)**; S.R. 2008/293, **art. 2**, Sch.

Rule for determining end of period of disqualification

48. In determining the expiration of the period for which a person is disqualified by an order of a court made in consequence of a conviction, any time after the conviction during which the disqualification was suspended or he was not disqualified shall be disregarded.

Endorsement

Endorsement of licences

49.—(1) Where a person is convicted of an offence involving obligatory endorsement, the court must order there to be endorsed on the counterpart of any licence held by him particulars of the conviction and also—

- (a) if the court orders him to be disqualified, particulars of the disqualification, or
- (b) if the court does not order him to be disqualified—
 - (i) particulars of the offence, including the date when it was committed, and
 - (ii) the penalty points to be attributed to the offence.

(2) Where the court does not order the person convicted to be disqualified, it need not make an order under paragraph (1) if for special reasons it thinks fit not to do so.

(3) This Article is subject to Article 53.

VALID FROM 14/12/2010

[^{F59}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.]

F59 Art. 49A inserted (14.12.2010) by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts. 1(3), **39(3)**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Effect of endorsement

50.—(1) An order that any particulars or penalty points are to be endorsed on the counterpart of any licence held by the person convicted shall, whether he is at the time the holder of a licence or not, operate as an order that the counterpart of any licence he may then hold or may subsequently obtain is to be so endorsed until he becomes entitled under paragraph (3) to have a licence issued to him with its counterpart free from the particulars or penalty points.

(2) On the issue of a new licence to a person, any particulars or penalty points ordered to be endorsed on the counterpart of any licence held by him shall be entered on the counterpart of the licence unless he has become entitled under paragraph (3) to have a licence issued to him with its counterpart free from those particulars or penalty points.

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(3) A person the counterpart of whose licence has been ordered to be endorsed 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.

(4) An endorsement ordered on a person's conviction of an offence remains effective (subject to paragraphs (5) and (6))—

- (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.

(5) 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.

(6) Where the offence was one—

- (a) under Article 14, 15(1) or 16(1)(a) of that Order (driving offences connected with drink or drugs),^{F60} . . .
- (b) under Article 18(7) of that Order (failing to provide specimen) involving obligatory disqualification, [^{F61}or
- (c) under Article 18A(6) of that Order (failing to allow a specimen to be subjected to laboratory test),]

the endorsement remains effective until 11 years have elapsed since the conviction.

F60 Words in art. 50(6)(a) repealed (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(2), Sch. 8 Pt. I; S.R. 2007/454, art. 2, Sch.

F61 Art. 50(6)(c) and preceding word inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 15; S.R. 2007/454, art. 2, Sch.

VALID FROM 14/12/2010

[^{F62}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

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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).]

F62 Art. 50A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 39(6), **Sch. 4 para. 9**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

General

Combination of disqualification and endorsement with probation orders and orders for discharge

51.—(1) Notwithstanding anything in section 8(2) of the Probation Act (Northern Ireland) 1950 (conviction of offender placed on probation or discharged to be disregarded for the purposes of enactments relating to disqualification), a court which on convicting a person of an offence involving obligatory or discretionary disqualification makes—

- (a) a probation order, or
- (b) an order discharging him absolutely or conditionally,

may on that occasion also exercise any power conferred, and must also discharge any duty imposed, on the court by Articles 35, 40, 41 or 49.

(2) A conviction—

- (a) in respect of which a court has ordered a person to be disqualified, or
- (b) of which particulars have been endorsed on the counterpart of any licence held by him,

is to be taken into account, notwithstanding anything in section 8(1) of the Probation Act (Northern Ireland) 1950 (conviction of offender placed on probation or discharged to be disregarded for the purpose of subsequent proceedings), in determining his liability to punishment or disqualification for any offence involving obligatory or discretionary disqualification committed subsequently.

Supplementary provisions as to disqualifications and endorsements

52.—(1) In any case where a court exercises its power under Article 35, 40 or 49 not to order any disqualification or endorsement or to order disqualification for a shorter period than would otherwise be required, it must state the grounds for doing so in the order of the court.

(2) Where a court orders the endorsement of the counterpart of any licence held by a person it may, and where a court orders the holder of a licence to be disqualified for a period of 56 days or more it must, send the licence and its counterpart, on their being produced to the court, to the Department; and if the court orders the endorsement but does not send the licence and its counterpart to the Department it must send it notice of the endorsement.

[^{F63}(2A) Paragraph (2) is subject to Article 4(2) of, and paragraph 7(2) of Schedule 1 to, the Road Traffic (New Drivers)(Northern Ireland) Order 1998 (obligation of court to send licence and its counterpart to the Department).]

(3) Where on an appeal against an order for the endorsement of a licence or the disqualification of a person the appeal is allowed, the court by which the appeal is allowed must send notice of that fact to the Department.

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

F63 1998 NI 7

Exemption from disqualification and endorsement for certain construction and use offences

53.—(1) Where a person is convicted of an offence under Article 54 of the Order of 1995 (using vehicle in dangerous condition etc.) the court must not—

- (a) order him to be disqualified, or
- (b) order any particulars or penalty points to be endorsed on the counterpart of any licence held by him,

if he proves that he did not know, and had no reasonable cause to suspect, that the use of the vehicle involved a danger of injury to any person.

(2) Where a person is convicted of an offence under Article 56 of the Order of 1995 (breach of requirement as to brakes, steering-gear or tyres) the court must not—

- (a) order him to be disqualified, or
- (b) order any particulars or any penalty points to be endorsed on the counterpart of any licence held by him,

if he proves that he did not know, and had no reasonable cause to suspect, that the facts of the case were such that the offence would be committed.

Offender escaping consequences of endorsable offence by deception

54.—(1) This Article applies where in dealing with a person convicted of an offence involving obligatory endorsement a court was deceived regarding any circumstances that were or might have been taken into account in deciding whether or for how long to disqualify him.

(2) If—

- (a) the deception constituted or was due to an offence committed by that person, and
- (b) he is convicted of that offence,

the court by or before which he is convicted shall have the same powers and duties regarding an order for disqualification as had the court which dealt with him for the offence involving obligatory endorsement but must, in dealing with him, take into account any order made on his conviction of the offence involving obligatory endorsement.

PART IV

FIXED PENALTIES

Introductory

Interpretation of this Part

55.—(1) In this Part—

“authorised person” has the meaning given by Article 60(8);

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“driver” except in Article 67 means, in relation to an alleged fixed penalty offence, the person by whom, assuming the offence to have been committed, it was committed;

“proceedings”, except in relation to proceedings for enforcing payment of a sum registered under Article 76, means criminal proceedings.

(2) In this Part—

- (a) references to a notice requesting a hearing in respect of an offence are references to a notice indicating that the person giving the notice wishes to contest liability for the offence or seeks a determination by a court with respect to the appropriate punishment for the offence;
- (b) references to an offence include an alleged offence; and
- (c) references to the person who is or was at any time the registered keeper of a vehicle are references to the person in whose name the vehicle is or was at that time registered under the Vehicle Excise and Registration Act 1994.

Expressions defined in this Part

56. 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.

(1) Expression	(2) Relevant provision
Authorised person	Article 60(8)
Conditional offer	Article 80(2)
Fixed penalty	Article 59
Fixed penalty clerk	Articles 74(5) and 80(3)
Fixed penalty notice	Article 58
Fixed penalty offence	Article 57
Notice to owner	Articles 68(2) and 71(4)
Notice requesting a hearing in respect of an offence	Article 55(2)
Offence	Article 55(2)
Official form	Article 73(4)
Owner	Article 73(1)
Period allowed for response to a notice to owner	Article 68(5)
Registered keeper	Article 55(2)
Statutory statement of facts	Part II of Schedule 2
Statutory statement of hiring	Part I of Schedule 2
Statutory statement of ownership	Part I of Schedule 2
Suspended enforcement period	Article 58(3)(a)
Time of the alleged offence	Article 68(3)

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Fixed penalty offences

57.—(1) Subject to paragraph (3), for the purposes of this Part a “fixed penalty offence” is an offence specified in an order made under paragraph (2).

(2) The Department may by order specify as a fixed penalty offence for the purposes of this Part, any offence committed in respect of a vehicle, being an offence created under a statutory provision and punishable on summary conviction.

(3) Notwithstanding that an offence is specified by order under paragraph (2), it shall not be a fixed penalty offence for the purposes of this Part if it is committed—

- (a) by causing or permitting a vehicle to be used by another person in contravention of any provision made or restriction or prohibition imposed by or under any statutory provision,^{F64} . . .

Sub#para. (b) rep. by 1998 NI 7

F64 1998 NI 7

Fixed penalty notices

58.—(1) In this Part “fixed penalty notice” means a notice offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty in accordance with this Part.

(2) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.

(3) A fixed penalty notice must state—

- (a) the period during which, by virtue of Article 83(1), proceedings cannot be brought against any person for the offence to which the notice relates, being the period of 21 days following the date of the notice or such longer period (if any) as may be specified in the notice (referred to in this Part as the “suspended enforcement period”),
- (b) the amount of the fixed penalty, and
- (c) the clerk of petty sessions to whom and the address at which the fixed penalty may be paid.

Amount of fixed penalty

59. The fixed penalty for an offence is—

- (a) such amount as the Department may by order prescribe, or
- (b) one-half of the maximum amount of the fine to which a person committing that offence would be liable on summary conviction,

whichever is the less.

Giving notices to suspected offenders

Notices on-the-spot or at a police station

60.—(1) This Article applies where on any occasion a constable in uniform has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence.

(2) Subject to paragraph (3), the constable may give him a fixed penalty notice in respect of the offence.

Status: Point in time view as at 16/07/2008. This version of this Order contains provisions that are not valid for this point in time.

Changes to legislation: The Road Traffic Offenders (Northern Ireland) Order 1996 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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

- (a) he produces his licence and its counterpart for inspection by the constable,
- (b) the constable is satisfied, on inspecting the licence and its counterpart, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence, and
- (c) he surrenders his licence and its counterpart to the constable to be retained and dealt with in accordance with this Part.

(4) Where—

- (a) the offence appears to the constable to involve obligatory endorsement, and
- (b) the person concerned does not produce his licence and its counterpart for inspection by the constable,

the constable may give him a notice stating that if, within 7 days after the notice is given, he produces the notice together with his licence and its counterpart in person to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned) and the requirements of paragraph (5)(a) and (b) are met he will then be given a fixed penalty notice in respect of the offence.

(5) If a person to whom a notice has been given under paragraph (4) produces the notice together with his licence and its counterpart in person to a constable or authorised person at the police station specified in the notice within 7 days after the notice was so given to him and the following requirements are met, that is—

- (a) the constable or authorised person is satisfied, on inspecting the licence and its counterpart, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence, and
- (b) he surrenders his licence and its counterpart to the constable or authorised person to be retained and dealt with in accordance with this Part,

the constable or authorised person must give him a fixed penalty notice in respect of the offence to which the notice under paragraph (4) relates.

(6) A notice under paragraph (4) shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.

(7) A licence and a counterpart of a licence surrendered in accordance with this Article must be sent to the fixed penalty clerk.

(8) In this Part “authorised person”, in relation to a fixed penalty notice given at a police station, means a person authorised for the purposes of this Article by or on behalf of the Chief Constable.

(9) In determining for the purposes of paragraphs (3)(b) and (5)(a) 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.

Modifications etc. (not altering text)

C19 [Art. 60](#) extended by 2003 (c. 6), Sch. 2A para. 1 (as inserted (22.4.2007 for specified purposes otherwise prosp.) by [Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(2)(d)(3), 7(8), [Sch. 5](#))

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Effect of fixed penalty notice given under Article 60

61.—(1) This Article applies where a fixed penalty notice relating to an offence has been given to any person under Article 60, and references in this Article to the recipient are to the person to whom the notice was given.

(2) No proceedings shall be brought against the recipient for the offence to which the fixed penalty notice relates unless before the end of the suspended enforcement period he has given notice requesting a hearing in respect of that offence in the manner specified in the fixed penalty notice.

(3) Where—

- (a) the recipient has not given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates in the manner so specified, and
- (b) the fixed penalty has not been paid in accordance with this Part before the end of the suspended enforcement period,

a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under Article 76 for enforcement against the recipient as a fine.

Licence receipts

62.—(1) A constable or authorised person to whom a person surrenders his licence and its counterpart on receiving a fixed penalty notice given to him under Article 60 must issue a receipt for the licence and its counterpart under this Article.

(2) The fixed penalty clerk may, on the application of a person who has surrendered his licence and its counterpart in those circumstances, issue a new receipt for them.

(3) A receipt issued under this Article ceases to have effect—

- (a) if issued by a constable or authorised person, on the expiration of the period of one month beginning with the date of issue or such longer period as may be prescribed, and
- (b) if issued by the fixed penalty clerk, on such date as he may specify in the receipt,

or, if earlier, on the return of the licence and its counterpart to the licence holder.

Endorsement of licences without hearings

63.—(1) Subject to paragraph (2), where a person (referred to in this Article as “the licence holder”) has surrendered his licence and its counterpart to a constable or authorised person on the occasion when he was given a fixed penalty notice under Article 60, the counterpart of his licence may be endorsed in accordance with this Article without any order of a court.

(2) The counterpart of a person's licence 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) On the payment of the fixed penalty before the end of the suspended enforcement period, the fixed penalty clerk must endorse the relevant particulars on the counterpart of the licence and return it together with the licence to the licence holder.

(4) Where any sum determined by reference to the fixed penalty is registered under Article 76 for enforcement against the licence holder as a fine, the fixed penalty clerk must, on the registration of that sum, endorse the relevant particulars on the counterpart of the licence and return it together with the licence to the licence holder.

(5) References in this Article to the relevant particulars are to—

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- (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) On endorsing the counterpart of a person's licence under this Article the fixed penalty clerk must send notice of the endorsement and of the particulars endorsed to the Department.

[^{F65}(7) Paragraphs (3) and (4) are subject to Article 4(4)(a) of , and paragraph 7(4)(a) of Schedule 1 to, the Road Traffic (New Drivers) (Northern Ireland) Order 1998; and the fixed penalty clerk need not comply with paragraph (6) in a case where he sends a person's licence and its counterpart to the Department under Article 4(4)(b) of, or paragraph 7(4)(b) of Schedule 1 to, that Order.]

F65 1998 NI 7

VALID FROM 14/12/2010

[^{F66}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.]

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F66 Art. 63A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **39(5)**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Effect of endorsement without hearing

64.—(1) Where the counterpart of a person's licence is endorsed under Article 63 he shall be treated for the purposes of Articles 16(4), 30, 31 and 50 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 63(5)(a) were particulars of his conviction of that offence.

(2) In relation to any endorsement of the counterpart of a person's licence under Article 63—

- (a) the reference in Article 50(3) to the order for endorsement, and
- (b) the references in Article 16(4) to any order made on a person's conviction,

are to be read as a reference to the endorsement itself.

VALID FROM 14/12/2010

[^{F67}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.]

F67 Art. 64A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 39(6), **Sch. 4 para. 16**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Notification of court and date of trial

65.—(1) On an occasion when a person is given a fixed penalty notice under Article 60 in respect of an offence, he may be given written notification specifying the court of summary jurisdiction by which and the date on which the offence will be tried if he gives notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice.

(2) Subject to paragraphs (4) and (5), where—

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- (a) a person has been notified in accordance with this Article of the court and date of trial of an offence in respect of which he has been given a fixed penalty notice, and
- (b) he has given notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice,

the provisions of the Magistrates' Courts (Northern Ireland) Order 1981 shall apply as mentioned in paragraph (3).

(3) Those provisions are to have effect for the purpose of any proceedings in respect of that offence as if—

- (a) the allegation in the fixed penalty notice with respect to that offence were a complaint duly made in accordance with Article 20 of that Order, and
- (b) the notification of the court and date of trial were a summons duly issued on that complaint by a justice of the peace of the county court division in which the court of summary jurisdiction notified as the court of trial is situated, requiring the person notified to appear before that court to answer to that complaint and duly served on him on the date on which the notification was given.

(4) If, in a case within paragraph (2), notice is served by or on behalf of the Chief Constable on the person who gave notice requesting a hearing stating that no proceedings are to be brought in respect of the offence concerned, that paragraph does not apply and no such proceedings are to be brought against the person who gave notice requesting a hearing.

(5) Article 25A of that Order (proceedings invalid where accused did not know of them) is not applied by paragraph (2) in a case where a person has been notified in accordance with this Article of the court and date of trial of an offence.

Fixed penalty notice mistakenly given: exclusion of fixed penalty procedures

66.—(1) This Article applies where, on inspection of a licence and its counterpart sent to him under Article 60(7), it appears to the fixed penalty clerk that the person whose licence it is 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 fixed penalty clerk must not endorse the counterpart of the licence under Article 63 but must instead send it together with the licence to the Chief Constable.

(3) 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.

(4) 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.

(5) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of any provision 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 whose licence it is as a fine, and
- (b) any proceedings for enforcing payment of any such sum within the meaning of Articles 78 and 79 (defined in Article 79(5)).

(6) 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.

Status: Point in time view as at 16/07/2008. This version of this Order contains provisions that are not valid for this point in time.

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VALID FROM 14/12/2010

[^{F68}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.]

F68 Art. 66A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(5), 39(6), **Sch. 4 para. 18**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Notices fixed to vehicles

Fixing notices to vehicles

67.—(1) Where on any occasion a constable has reason to believe in the case of any stationary vehicle that a fixed penalty offence is being or has on that occasion been committed in respect of it, he may fix a fixed penalty notice in respect of the offence to the vehicle unless the offence appears to him to involve obligatory endorsement.

Status: Point in time view as at 16/07/2008. This version of this Order contains provisions that are not valid for this point in time.

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(2) A person is guilty of an offence if he removes or interferes with any notice fixed to a vehicle under this Article, unless he does so by or under the authority of the driver or person in charge of the vehicle or the person liable for the fixed penalty offence in question.

Service of notice to owner if penalty not paid

68.—(1) This Article applies where a fixed penalty notice relating to an offence has been fixed to a vehicle under Article 67.

(2) Subject to paragraph (3), if at the end of the suspended enforcement period the fixed penalty has not been paid in accordance with this Part, a notice under this Article may be served by or on behalf of the Chief Constable on any person who appears to him (or to any person authorised to act on his behalf for the purposes of this Article) to be the owner of the vehicle. Such a notice is referred to in this Part as a “notice to owner”.

(3) Paragraph (2) does not apply where before the end of the suspended enforcement period—

- (a) any person has given notice requesting a hearing in respect of the offence in the manner specified in the fixed penalty notice, and
- (b) the notice so given contains a statement by that person to the effect that he was the driver of the vehicle at the time when the offence is alleged to have been committed.

That time is referred to in this Part as the “time of the alleged offence”.

(4) A notice to owner—

- (a) must give particulars of the alleged offence and of the fixed penalty concerned,
- (b) must state the period allowed for response to the notice, and
- (c) must indicate that, if the fixed penalty is not paid before the end of that period, the person on whom the notice is served is asked to provide before the end of that period to the Chief Constable a statutory statement of ownership (as defined in Part I of Schedule 2).

(5) For the purposes of this Part, the period allowed for response to a notice to owner is the period of 21 days from the date on which the notice is served, or such longer period (if any) as may be specified in the notice.

(6) A notice to owner relating to any offence must indicate that the person on whom it is served may, before the end of the period allowed for response to the notice, either—

- (a) give notice requesting a hearing in respect of the offence in the manner indicated by the notice, or
- (b) if—
 - (i) he was not the driver of the vehicle at the time of the alleged offence, and
 - (ii) a person purporting to be the driver wishes to give notice requesting a hearing in respect of the offence,

provide, together with a statutory statement of ownership provided as requested in that notice, a statutory statement of facts (as defined by Part II of Schedule 2) having the effect referred to in paragraph 3(2) of that Schedule (that is, as a notice requesting a hearing in respect of the offence given by the driver).

(7) In any case where a person on whom a notice to owner relating to any offence has been served provides a statutory statement of facts in pursuance of paragraph (6)(b)—

- (a) any notice requesting a hearing in respect of the offence that he purports to give on his own account shall be of no effect, and
- (b) no sum may be registered for enforcement against him as a fine in respect of the offence unless, within the period of 2 months immediately following the period allowed for

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response to the notice to owner, no summons in respect of the offence in question is served on the person identified in the statement as the driver.

Enforcement or proceedings against owner

69.—(1) This Article applies where—

- (a) a fixed penalty notice relating to an offence has been fixed to a vehicle under Article 67,
- (b) a notice to owner relating to the offence has been served on any person under Article 68(2) before the end of the period of 6 months beginning with the day on which the fixed penalty notice was fixed to the vehicle, and
- (c) the fixed penalty has not been paid in accordance with this Part before the end of the period allowed for response to the notice to owner.

(2) Subject to paragraph (4) and to Article 68(7)(b), a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under Article 76 for enforcement against the person on whom the notice to owner was served as a fine.

(3) Subject to paragraph (4) and to Article 70, proceedings may be brought in respect of the offence against the person on whom the notice to owner was served.

(4) If the person on whom the notice to owner was served—

- (a) was not the owner of the vehicle at the time of the alleged offence, and
- (b) provides a statutory statement of ownership to that effect in response to the notice before the end of the period allowed for response to the notice,

he shall not be liable in respect of the offence by virtue of this Article nor shall any sum determined by reference to the fixed penalty for the offence be so registered by virtue of this Article for enforcement against him as a fine.

(5) Subject to paragraph (6)—

- (a) for the purposes of the institution of proceedings by virtue of paragraph (3) against any person on whom a notice to owner has been served, and
- (b) in any proceedings brought by virtue of that paragraph against any such person,

it shall be conclusively presumed (notwithstanding that that person may not be an individual) that he was the driver of the vehicle at the time of the alleged offence and, accordingly, that acts or omissions of the driver of the vehicle at that time were his acts or omissions.

(6) That presumption does not apply in any proceedings brought against any person by virtue of paragraph (3) if, in those proceedings, it is proved that at the time of the alleged offence the vehicle was in the possession of some other person without the consent of the accused.

(7) Where—

- (a) by virtue of paragraph (3) proceedings may be brought in respect of an offence against a person on whom a notice to owner was served, and
- (b) Article 79(1) does not apply,

Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (complaint must be made within 6 months of time offence committed) shall have effect as if for the reference to 6 months there were substituted a reference to 12 months.

Restrictions on proceedings against owner and others

70.—(1) In any case where a notice to owner relating to an offence may be served under Article 68, no proceedings shall be brought in respect of the offence against any person other than a person on whom such a notice has been served unless he is identified as the driver of the vehicle at the time

of the alleged offence in a statutory statement of facts provided in pursuance of Article 68(6)(b) by a person on whom such a notice has been served.

(2) Proceedings in respect of an offence to which a notice to owner relates shall not be brought against the person on whom the notice was served unless, before the end of the period allowed for response to the notice, he has given notice, in the manner indicated by the notice to owner, requesting a hearing in respect of the offence.

(3) Proceedings in respect of an offence to which a notice to owner relates may not be brought against any person identified as the driver of the vehicle in a statutory statement of facts provided in response to the notice if the fixed penalty is paid in accordance with this Part before the end of the period allowed for response to the notice.

(4) Once any sum determined by reference to the fixed penalty for an offence has been registered, by virtue of Article 69, under Article 76 for enforcement as a fine against a person on whom a notice to owner relating to that offence has been served, no proceedings shall be brought against any other person in respect of that offence.

Hired vehicles

71.—(1) This Article applies where—

- (a) a notice to owner has been served on a vehicle-hire firm,
- (b) at the time of the alleged offence the vehicle in respect of which the notice was served was let to another person by the vehicle-hire firm under a hiring agreement to which this Article applies, and
- (c) within the period allowed for response to the notice the firm provides the Chief Constable with the documents mentioned in paragraph (2).

(2) Those documents are a statement on an official form, signed by or on behalf of the firm, stating that at the time of the alleged offence the vehicle concerned was hired under a hiring agreement to which this Article applies, together with—

- (a) a copy of that hiring agreement, and
- (b) a copy of a statement of liability signed by the hirer under that hiring agreement.

(3) In this Article a “statement of liability” means a statement made by the hirer under a hiring agreement to which this Article applies to the effect that the hirer acknowledges that he will be liable, as the owner of the vehicle, in respect of any fixed penalty offence which may be committed with respect to the vehicle during the currency of the hiring agreement and giving such information as may be prescribed.

(4) In any case where this Article applies, Articles 68, 69 and 70 shall have effect as if—

- (a) any reference to the owner of the vehicle were a reference to the hirer under the hiring agreement, and
- (b) any reference to a statutory statement of ownership were a reference to a statutory statement of hiring,

and accordingly references in this Part (with the exceptions mentioned below) to a notice to owner include references to a notice served under Article 68 as it applies by virtue of this Article.

This paragraph does not apply to references to a notice to owner in this Article or in Article 86(2)

(b) or in Part I of Schedule 2.

(5) In any case where this Article applies, a person authorised in that behalf by the Chief Constable may, at any reasonable time within 6 months after service of the notice to owner (and on the production of his authority) require the firm to produce the originals of the hiring agreement and statement of liability in question.

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(6) If a vehicle-hire firm fails to produce the original of a document when required to do so under paragraph (5), this Article shall thereupon cease to apply (and Article 69 shall apply accordingly in any such case after that time as it applies in a case where the person on whom the notice to owner was served has failed to provide a statutory statement of ownership in response to the notice within the period allowed).

(7) This Article applies to a hiring agreement under the terms of which the vehicle concerned is let to the hirer for a fixed period of less than 6 months (whether or not that period is capable of extension by agreement between the parties or otherwise); and any reference in this Article to the currency of the hiring agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of the fixed period specified in the agreement, but otherwise on the terms and conditions so specified.

(8) In this Article—

“hiring agreement” refers only to an agreement which contains such particulars as may be prescribed and does not include a hire-purchase agreement within the meaning of the Consumer Credit Act 1974,

“vehicle-hire firm” means any person engaged in hiring vehicles in the course of a business.

False statements in response to notices to owner

72. A person who, in response to a notice to owner, provides a statement which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.

“Owner”, “statutory statement” and “official form”

73.—(1) For the purposes of this Part, the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and for the purposes of determining, in the course of any proceedings brought by virtue of Article 69(3), who was the owner of a vehicle at any time, it shall be presumed that the owner was the person who was the registered keeper of the vehicle at that time.

(2) Notwithstanding the presumption in paragraph (1), it is open to the defence in any proceedings to prove that the person who was the registered keeper of a vehicle at a particular time was not the person by whom the vehicle was kept at that time and to the prosecution to prove that the vehicle was kept by some other person at that time.

(3) References in this Part to statutory statements of any description are references to the statutory statement of that description defined in Schedule 2; and that Schedule shall also have effect for the purpose of requiring certain information to be provided in official forms for the statutory statements so defined to assist persons in completing those forms and generally in determining what action to take in response to a notice to owner.

(4) In this Part “official form”, in relation to a statutory statement mentioned in Schedule 2 or a statement under Article 71(2), means a document supplied by or on behalf of the Chief Constable for use in making that statement.

The fixed penalty procedure

Payment of penalty

74.—(1) Payment of a fixed penalty under this Part must be made to such clerk of petty sessions as may be specified in the fixed penalty notice relating to that penalty.

(2) Without prejudice to payment by any other method, payment of a fixed penalty under this Part may be made by properly addressing, pre-paying and posting a letter containing the fixed penalty

notice and the amount of the penalty and, unless the contrary is proved, shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(3) A letter is properly addressed for the purposes of paragraph (2) if it is addressed to the fixed penalty clerk at the address specified in the fixed penalty notice relating to the fixed penalty as the address at which the fixed penalty may be paid.

(4) Sums paid by way of a fixed penalty for an offence shall be treated as if they were fines imposed on summary conviction of that offence.

(5) References in this Part (except in Articles 80 to 82), in relation to any fixed penalty or fixed penalty notice, to the fixed penalty clerk are references to the clerk specified in accordance with paragraph (1) in the fixed penalty notice relating to that penalty or (as the case may be) in that fixed penalty notice.

Registration certificates

75.—(1) This Article and Article 76 apply where by virtue of Article 61(3) or 69(2) a sum determined by reference to the fixed penalty for any offence may be registered under Article 76 for enforcement against any person as a fine.

In this Article and Article 76—

- (a) that sum is referred to as a “sum payable in default”, and
- (b) the person against whom that sum may be so registered is referred to as the “defaulter”.

(2) Subject to paragraph (3), the Chief Constable, or a person authorised by him to act in that behalf, may in respect of any sum payable in default issue a certificate (referred to in this Article and Article 76 as a “registration certificate”) stating that the sum is registrable under Article 76 for enforcement against the defaulter as a fine.

(3) Where the Chief Constable, or a person authorised by him to act in that behalf, issues a registration certificate under this Article, he must cause it to be sent to the clerk of petty sessions for such petty sessions district as the Lord Chancellor may direct.

(4) A registration certificate issued under this Article in respect of any sum payable in default must—

- (a) give particulars of the offence to which the fixed penalty notice relates,
- (b) indicate whether registration is authorised under Article 61(3) or 69(2), and
- (c) state the name and last known address of the defaulter and the amount of the sum payable in default.

Registration of sums payable in default

76.—(1) Where the clerk of petty sessions receives a registration certificate issued under Article 75 in respect of any sum payable in default, he must register that sum for enforcement as a fine by entering it in the Order Book of a court of summary jurisdiction.

(2) On registering any sum under this Article for enforcement as a fine, the clerk of petty sessions must give to the defaulter notice of registration—

- (a) specifying the amount of that sum and requiring payment of it by such date, not less than 21 days from the date of registration, as may be specified in the notice; and
- (b) giving the information with respect to the offence and the authority for registration included in the registration certificate by virtue of Article 75(4)(a) and (b).

(3) On the registration of any sum in the Order Book of a court of summary jurisdiction by virtue of this Article, any statutory provision referring (in whatever terms) to a fine imposed or a sum adjudged to be paid by a conviction of such a court shall, subject to regulations made under

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paragraph (4), have effect in the case in question as if the sum so registered were a fine imposed by that court on the conviction of the defaulter on the date of the registration.

(4) The Lord Chancellor may make such regulations with respect to the enforcement of payment of sums registered under this Article as he considers appropriate.

(5) Regulations under paragraph (4) may, in particular,—

- (a) modify the provisions of the Magistrates' Courts (Northern Ireland) Order 1981 relating to the satisfaction and enforcement of sums adjudged to be paid by a conviction, as they have effect by virtue of paragraph (3) in relation to sums registered under this Article; and
- (b) make such incidental, supplemental or consequential provision (including provision to modify a statutory provision) as appears to the Lord Chancellor to be expedient.

(6) In paragraph (5) “modify” includes the making of additions, omissions, exceptions and amendments.

Notices on-the-spot or at a police station: when registration and endorsement invalid

77.—(1) This Article applies where—

- (a) a person who has received notice of the registration, by virtue of Article 61(3), of a sum under Article 76 for enforcement against him as a fine makes a statutory declaration to the effect mentioned in paragraph (2), and
- (b) that declaration is, within 21 days of the date on which the person making it received notice of the registration, served on the clerk of petty sessions.

(2) The statutory declaration must state—

- (a) that the person making the declaration was not the person to whom the relevant fixed penalty notice was given, or
- (b) that he gave notice requesting a hearing in respect of the alleged offence as permitted by the fixed penalty notice before the end of the suspended enforcement period.

(3) In any case within paragraph (2)(a), the relevant fixed penalty notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void.

(4) Where in any case within paragraph (2)(a) the person to whom the relevant fixed penalty notice was given surrendered a licence and its counterpart held by the person making the declaration, any endorsement of that counterpart made under Article 63 in respect of the offence in respect of which that notice was given shall be void.

(5) In any case within paragraph (2)(b)—

- (a) the registration, any proceedings taken before the declaration was served for enforcing payment of the sum registered, and carry endorsement, in respect of the offence in respect of which the relevant fixed penalty notice was given, made under Article 63 before the declaration was served, shall be void, and
- (b) the case shall be treated after the declaration is served as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.

(6) The clerk of petty sessions must—

- (a) cancel an endorsement of the counterpart of a licence under Article 63 that is void by virtue of this Article on production of the licence and its counterpart to him for that purpose, and
- (b) send notice of the cancellation to the Department.

(7) References in this Article to the relevant fixed penalty notice are to the fixed penalty notice relating to the fixed penalty concerned.

Notices fixed to vehicles: when registration invalid

78.—(1) This Article applies where—

- (a) a person who has received notice of the registration, by virtue of Article 69(2), of a sum under Article 76 for enforcement against him as a fine makes a statutory declaration to the effect mentioned in paragraph (2), and
- (b) that declaration is, within 21 days of the date on which the person making it received notice of the registration, served on the clerk of petty sessions.

(2) The statutory declaration must state either—

- (a) that the person making the declaration did not know of the fixed penalty concerned or of any fixed penalty notice or notice to owner relating to that penalty until he received notice of the registration, or
- (b) that he was not the owner of the vehicle at the time of the alleged offence of which particulars are given in the relevant notice to owner and that he has a reasonable excuse for failing to comply with that notice, or
- (c) that he gave notice requesting a hearing in respect of that offence as permitted by the relevant notice to owner before the end of the period allowed for response to that notice.

(3) In any case within paragraph (2)(a) or (b)—

- (a) the relevant notice to owner,
- (b) the registration, and
- (c) any proceedings taken before the declaration was served for enforcing payment of the sum registered,

shall be void but without prejudice, in a case within paragraph (2)(a), to the service of a further notice to owner under Article 68 on the person making the declaration.

This paragraph applies whether or not the relevant notice to owner was duly served in accordance with that Article on the person making the declaration.

(4) In any case within paragraph (2)(c)—

- (a) no proceedings shall be taken, after the statutory declaration is served until the end of the period of 21 days following the date of that declaration, for enforcing payment of the sum registered, and
- (b) where before the end of that period a notice is served by or on behalf of the Chief Constable on the person making the declaration asking him to provide a new statutory statement of ownership to the Chief Constable before the end of the period of 21 days from the date on which the notice is served, no such proceedings shall be taken until the end of the period allowed for response to that notice.

(5) Where in any case within paragraph (2)(c)—

- (a) no notice is served by or on behalf of the Chief Constable in accordance with paragraph (4), or
- (b) such a notice is so served and the person making the declaration provides a new statutory statement of ownership in accordance with the notice,

then—

- (i) the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void, and
- (ii) the case shall be treated after the time mentioned in paragraph (6) as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.

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- (6) The time referred to in paragraph (5) is—
- (a) in a case within sub-paragraph (a) of that paragraph, the end of the period of 21 days following the date of the statutory declaration,
 - (b) in a case within sub-paragraph (b) of that paragraph, the time when the statement is provided.

(7) In any case where notice is served by or on behalf of the Chief Constable in accordance with paragraph (4), he must cause the clerk of petty sessions to be notified of that fact immediately on service of the notice.

(8) References in this Article to the relevant notice to owner are to the notice to owner relating to the fixed penalty concerned.

Provisions supplementary to Articles 77 and 78

79.—(1) In any case within Article 77(2)(b) or 78(2) of this Order, Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time) shall have effect as if for the reference to the time when the offence was committed there were substituted a reference to the date of the statutory declaration made for the purposes of Article 77(1) or, as the case may be, 78(1).

(2) Where, on the application of a person who has received notice of the registration of a sum under Article 76 for enforcement against him as a fine, it appears to a court of summary jurisdiction that it was not reasonable to expect him to serve, within 21 days of the date on which he received the notice, a statutory declaration to the effect mentioned in Article 77(2) or, as the case may be, 78(2), the court may accept service of such a declaration by that person after that period has expired.

(3) A statutory declaration accepted under paragraph (2) shall be taken to have been served as required by Article 77(1) or, as the case may be, Article 78(1).

(4) For the purposes of Articles 77(1) and 78(1), a statutory declaration shall be taken to be duly served on the clerk of petty sessions if it is delivered to him, left at his office, or sent in a registered letter or by the recorded delivery service addressed to him at his office.

(5) In Articles 77, 78 and this Article, references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum.

(6) For the purposes of Articles 77, 78 and this Article, a person shall be taken to receive notice of the registration of a sum under Article 76 for enforcement against him as a fine when he receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.

(7) Nothing in the provisions of Article 77, 78 or this Article is to be read as prejudicing any rights a person may have apart from those provisions by virtue of the invalidity of any action purportedly taken under this Part which is not in fact authorised by this Part in the circumstances of the case; and, accordingly, references in those provisions to the registration of any sum or to any other action taken under or by virtue of any provision of this Part are not to be read as implying that the registration or action was validly made or taken in accordance with that provision.

Conditional offer of fixed penalty

Issue of conditional offer

- 80.**—(1) Where—
- (a) a constable 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 or on behalf of the Chief Constable.

(2) A notice under this Article is referred to in this Article and in Articles 81 and 82 as a “conditional offer”.

(3) Where a person issues a conditional offer, he must notify such clerk of petty sessions as may be specified in the conditional offer of its issue and its terms; and that clerk is referred to in this Article and in Articles 81 and 82 as “the fixed penalty clerk”.

(4) A conditional offer must—

- (a) give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence,
- (b) state the amount of the fixed penalty for that offence, and
- (c) state that proceedings against the alleged offender cannot be commenced in respect of that offence until the end of the period of 28 days following the date on which the conditional offer was issued or such longer period as may be specified in the conditional offer.

(5) A conditional offer 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—
 - (i) makes payment of the fixed penalty to the fixed penalty clerk, and
 - (ii) where the offence to which the offer relates is an offence involving obligatory endorsement, at the same time delivers his licence and its counterpart to that clerk, and
- (b) where his licence and its counterpart are so delivered, that clerk is satisfied on inspecting them that, if the alleged offender 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.

(6) For the purposes of the condition set out in paragraph (5)(b), 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.

Effect of offer and payment of penalty

81.—(1) This Article applies where a conditional offer has been sent to a person under Article 80.

(2) No proceedings shall be brought against any person for the offence to which the conditional offer relates until the Chief Constable receives notice in accordance with paragraph (4) or (5).

(3) 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.

(4) Where—

- (a) the alleged offender tenders payment in accordance with the conditional offer and delivers his licence and its counterpart to the fixed penalty clerk, but
- (b) it appears to the clerk, on inspecting the licence and 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,

then paragraph (3) shall not apply and the clerk must return the licence and its counterpart to the alleged offender together with the payment and give notice that he has done so to the Chief Constable.

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(5) Where, on the expiry 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, the conditions specified in the offer in accordance with Article 80(5)(a) have not been fulfilled, the fixed penalty clerk must notify the Chief Constable.

(6) In determining for the purposes of paragraph (4)(b) 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.

(7) In any proceedings a certificate that by a date specified in the certificate payment of a fixed penalty was or was not received by the fixed penalty clerk shall, if the certificate purports to be signed by that clerk, be evidence of the facts stated.

Endorsement where penalty paid

82.—(1) Where—

- (a) in pursuance of a conditional offer a person (referred to in this Article as the “licence holder”) makes payment of the fixed penalty to the fixed penalty clerk and delivers his licence and its counterpart to the clerk, and
- (b) the clerk is not required by paragraph (4) of Article 81 to return the licence and its counterpart to him and did not, before the payment was tendered, notify the Chief Constable under paragraph (5) of that Article,

the clerk must forthwith endorse the relevant particulars on the counterpart of the licence and return it to the licence holder together with the licence.

(2) Subject to paragraph (3), where a cheque tendered in payment is subsequently dishonoured—

- (a) any endorsement made by the fixed penalty clerk under paragraph (1) remains effective, notwithstanding that the licence holder is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and
- (b) the fixed penalty clerk must, upon the expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the Chief Constable that no payment has been made.

(3) When proceedings are brought against a licence holder after a notice has been given in pursuance of paragraph (2)(b), the court—

- (a) must order the removal of the fixed penalty endorsement from the counterpart of the licence, and
- (b) may, on finding the licence holder guilty, make any competent order of endorsement or disqualification and pass any competent sentence.

(4) The reference in paragraph (1) to the relevant particulars is 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.

(5) The fixed penalty clerk must send notice to the Department—

- (a) of any endorsement under paragraph (1) and of the particulars endorsed, and
- (b) of any order under paragraph (3)(a).

(6) Where the counterpart of a person's licence is endorsed under this Article he shall be treated for the purposes of Articles 16(4), 30, 31 and 50 of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if—

- (a) he had been convicted of the offence,

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- (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 (4)(a) were particulars of his conviction of that offence.
- (7) In relation to any endorsement of the counterpart of a person's licence under this Article—
- (a) the reference in Article 50(3) of this Order to the order for endorsement, and
 - (b) the references in Article 16(4) to any order made on a person's conviction,
- are to be read as a reference to the endorsement itself.

[^{F69}(8) Paragraph (1) is subject to Article 4(4)(a) of, and paragraph 7(4)(a) of Schedule 1 to, the Road Traffic (New Drivers) (Northern Ireland) Order 1998; and the fixed penalty clerk need not comply with paragraph (5)(a) in a case where he sends a person's licence and its counterpart to the Department under Article 4(4)(b) of, or paragraph 7(4)(b) of Schedule 1 to, that Order.]

F69 1998 NI 7

VALID FROM 14/12/2010

[^{F70}**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,

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- (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.]

F70 Art. 82A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 39(6), **Sch. 4 para. 24**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Proceedings in fixed penalty cases

General restriction on proceedings

83.—(1) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates until the end of the suspended enforcement period.

(2) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates if the fixed penalty is paid in accordance with this Part before the end of the suspended enforcement period.

Statements by constables

84.—(1) In any proceedings a certificate that a copy of a statement by a constable with respect to the alleged offence (referred to in this Article as a “constable's witness statement”) was included in or given with a fixed penalty notice or a notice under Article 60(3) given to the accused on a date specified in the certificate shall, if the certificate purports to be signed by the constable or authorised person who gave the accused the notice, be evidence of service of a copy of that statement by delivery to the accused on that date.

(2) In any proceedings a certificate that a copy of a constable's witness statement was included in or served with a notice to owner served on the accused in the manner and on a date specified in the certificate shall, if the certificate purports to be signed by any person employed by the^{F71} Policing Board], be evidence of service in the manner and on the date so specified both of a copy of that statement and of the notice to owner.

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(3) Any address specified in any such certificate as is mentioned in paragraph (2) as being the address at which service of the notice to owner was effected shall be taken for the purposes of any proceedings in which the certificate is tendered in evidence to be the accused's proper address, unless the contrary is proved.

(4) Where a copy of a constable's witness statement is included in or served with a notice to owner served in any manner in which the notice is authorised to be served under this Part, the statement shall be treated as duly served for the purposes of section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (proof by written statement) notwithstanding that the manner of service is not authorised by subsection (8) of that section.

(5) In relation to any proceedings in which service of a constable's witness statement is proved by certificate under this Article—

- (a) that service shall be taken for the purposes of subsection (2)(c) of that section (copy of statement to be tendered in evidence to be served before hearing on other parties to the proceedings by or on behalf of the party proposing to tender it) to have been effected by or on behalf of the complainant, and
- (b) subsection (2)(d) of that section (time for objection) shall have effect with the substitution, for the reference to 7 days from the service of the copy of the statement, of a reference to 7 days from the relevant date.

(6) In paragraph (5)(b) “relevant date” means—

- (a) where the accused gives notice requesting a hearing in respect of the offence in accordance with any provision of this Part, the date on which he gives that notice, and
- (b) where a notice in respect of the offence was given to the accused under Article 60(4) but no fixed penalty notice is given in respect of it, the last day for production of the notice under Article 60(5) at a police station in accordance with that Article.

F71 2000 c. 32

Certificates about payment

85. In any proceedings a certificate—

- (a) that payment of a fixed penalty was or was not received, by a date specified in the certificate, by the fixed penalty clerk, or
- (b) that a letter containing an amount sent by post in payment of a fixed penalty was marked as posted on a date so specified,

shall, if the certificate purports to be signed by the fixed penalty clerk, be evidence of the facts stated.

Documents signed by the accused

86.—(1) Where—

- (a) any person is charged with a fixed penalty offence, and
- (b) the complainant produces to the court a document to which this paragraph applies purporting to have been signed by the accused,

the document shall be presumed, unless the contrary is proved, to have been signed by the accused and shall be evidence in the proceedings of any facts stated in it tending to show that the accused was the owner, the hirer or the driver of the vehicle concerned at a particular time.

(2) Paragraph (1) applies to any document purporting to be—

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- (a) a notice requesting a hearing in respect of the offence charged given in accordance with a fixed penalty notice relating to that offence, or
- (b) a statutory statement of any description defined in Schedule 2 or a copy of a statement of liability within the meaning of Article 71 provided in response to a notice to owner.

Miscellaneous

Powers of court where clerk deceived

87.—(1) This Article applies where—

- (a) in endorsing the counterpart of any person's licence under Article 63, the fixed penalty clerk is deceived as to whether endorsement under that Article is excluded by Article 66(2) by virtue of the fact that the licence holder would be liable to be disqualified under Article 40 if he were convicted of the offence; or
- (b) in endorsing the counterpart of any person's licence under Article 82 the fixed penalty clerk is deceived as to whether he is required by Article 81(4) to return the licence and its counterpart without endorsing the counterpart by virtue of the fact that the licence holder would be liable to be disqualified under Article 40 if he were convicted of the offence.

(2) If—

- (a) the deception constituted or was due to an offence committed by the licence holder, and
- (b) the licence holder is convicted of that offence,

the court by or before which he is convicted shall have the same powers and duties as it would have had if he had also been convicted by or before it of the offence of which particulars were endorsed under Article 63 or, as the case may be, Article 82.

Regulations for the purposes of this Part

88.—(1) Except as otherwise provided by paragraph (2), the Department may by regulations make provision as to any matter incidental to the operation of this Part, and in particular—

- (a) for prescribing any information or further information to be provided in any notice, notification, certificate or receipt under Article 58(1), 60(4), 62, 65(1), 68(2), 75(2), 78(4) (b) or 80(1), or in any official form for a statutory statement mentioned in Schedule 2, or a statement under Article 71(2); and
- (b) for requiring any such official form to be served with any notice served under Article 68 or 78(4).

(2) The Lord Chancellor may by regulations prescribe the information to be supplied to the clerk of petty sessions or the fixed penalty clerk in connection with the performance of his duties under this Part.

VALID FROM 14/12/2010

[^{F72}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.]

Status: Point in time view as at 16/07/2008. This version of this Order contains provisions that are not valid for this point in time.

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F72 Art. 88A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 39(6), **Sch. 4 para. 27**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Service of documents

89. Subject to any requirement of this Part with respect to the manner in which a person may be provided with a document for the purposes of this Part, section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply in relation to the service of such a document as if in subsection (1) of that section the word “registering” were omitted.

Functions of traffic wardens

90.—(1) For the purposes of [F73 Article 44 of Road Traffic Regulation (Northern Ireland) Order 1997], neither the Chief Constable nor an order under paragraph (1) of that Article may authorise the employment of a traffic warden to discharge any function under this Part in respect of an offence if the offence appears to the traffic warden to be an offence involving obligatory endorsement, unless that offence was committed whilst the vehicle concerned was stationary.

(2) In so far as the Chief Constable or an order under that Article authorises the employment of traffic wardens for the purposes of this Part, references in this Part to a constable or, as the case may be, to a constable in uniform include a traffic warden.

F73 1997 NI 2

Procedure for making regulations and orders under this Part

91.—(1) Before making—

- (a) an order under Article 57 or 59, or
- (b) regulations under Article 88(1),

the Department must consult with such representative organisations as it thinks fit.

(2) Subject to paragraph (3), an order or regulations under any provision of this Part shall be subject to negative resolution.

(3) Regulations made under Article 76(4) or 88(2) shall be subject to annulment in pursuance of a resolution of either House of Parliament and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

VALID FROM 23/04/2012

[F74] PART IVA

FINANCIAL PENALTY DEPOSITS

F74 Pt. IVA (arts. 91A-91F) inserted (23.4.2012) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **12(1)**; S.R. 2012/16, **art. 2**, Sch.

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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—

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- (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;

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- (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.

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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.]

PART V

MISCELLANEOUS AND GENERAL

Penalty for breach of regulations

92. If a person acts in contravention of—

- (a) any regulations made by the Department under the Order of 1981 other than regulations made under Article 132 of that Order; or
- (b) any regulations made by the Department under the Order of 1995 other than regulations made under Article 45 or 61 of that Order,

and the contravention is not made an offence under any other provision of the Road Traffic Orders, he shall for each offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[^{F75}Application to Great Britain licence holders

92ZA.—(1) The references to a licence in the following provisions of this Order include references to a Great Britain licence—

- (a) Article 11,
- (b) Article 28(4) and (5) and (6)(b),
- (c) Article 29,
- (d) Article 31(1),
- (e) Article 32,
- (f) Article 33,
- (g) Article 47(6),
- (h) Article 49(1),
- (i) Article 51(2),
- (j) Article 52(2) and (3),
- (k) Article 53.

(2) Accordingly, the reference in Article 29(2)(b) to the suspension of a licence is to be construed in relation to a Great Britain licence holder as a reference to his ceasing to be authorised by virtue of Article 19E(1) of the Order of 1981 to drive in Northern Ireland a motor vehicle of any class.

(3) The references in Articles 28(6)(a) and 29(2) to a new licence include references to a counterpart of a Great Britain licence.

(4) In relation to a Great Britain licence holder to whom a counterpart is issued under Article 19F of the Order of 1981, the references in Part IV of this Order to a licence include references to a Great Britain licence.

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(5) Where a court orders the endorsement of the counterpart of any Great Britain licence held by a person, it must send notice of the endorsement to the Department.

(6) The notice must—

- (a) be sent in such manner and to such address, and
- (b) contain such particulars,

as the Department may determine.

(7) Where a court orders the holder of a Great Britain licence to be disqualified, it must send the Great Britain licence and its counterpart (if any), on their being produced to the court, to the Department.

(8) The licence and its counterpart must be sent to such address as the Department may determine.

(9) Where—

- (a) a notice is sent to the Department under paragraph (5), and
- (b) the particulars contained in the notice include—
 - (i) particulars of an offence in respect of which the holder of a Great Britain 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 Great Britain.]

F75 2003 NI 16

Effect of endorsement on Great Britain licence holders

92ZB. Article 92B applies in relation to Great Britain licences as it applies in relation to Community licences.

[^{F76}Application to Community licence holders

92A.—(1) The references in Articles 11, 28(4), (5) and (6)(b), 29, 31(1), 32, 33, 47(6), 49(1), 51(2), 52(3) and 53 to a licence include references to a Community licence; and accordingly the reference in Article 29(2)(b) to the suspension of a licence is to be construed in relation to a Community licence as a reference to the Community licence holder ceasing to be authorised by virtue of Article 15A(1) of the Order of 1981 to drive in Northern Ireland a motor vehicle of any class.

(2) The references in Articles 28(6)(a) and 29(2) to a new licence include references to a counterpart of a Community licence.

(3) In relation to a Community licence holder to whom a counterpart is issued under Article 15B of the Order of 1981, the references in Part IV of this Order to a licence include references to a Community licence.

(4) Where a court orders the endorsement of the counterpart of any Community licence held by a person, it must send notice of the endorsement to the Department.

(5) Where a court orders the holder of a Community licence to be disqualified, it must send the Community licence and its counterpart (if any), on their being produced to the court, to the Department.

(6) A notice sent by a court to the Department in pursuance of paragraph (4) must be sent in such manner and to such address and contain such particulars as the Department may determine, and a Community licence and its counterpart (if any) so sent in pursuance of paragraph (5) must be sent to such address as the Department may determine.

(7) Where a Community licence held by a person who is ordered by the court to be disqualified is sent to the Department in pursuance of paragraph (5), the Department—

- (a) must send to the licensing authority in the EEA State in respect of which the Community licence was issued the holder's name and address and particulars of the disqualification, and
- (b) must (subject to paragraph (8)) return the Community licence to the holder—
 - (i) in the expiry of the period of disqualification, or
 - (ii) if earlier, on being satisfied that the holder has left Northern Ireland and is not normally resident there.

(8) Where—

- (a) the Department would, apart from this paragraph, be under a duty on the expiry of the period of disqualification to return a Community licence to a person in pursuance of paragraph (7)(b)(i), but
- (b) at that time, the person would not be authorised by virtue of Article 15A(1) of the Order of 1981 to drive in Northern Ireland a motor vehicle of any class,

the Department must send the Community licence to the licensing authority in the EEA State in respect of which it was issued and explain to them its reasons for so doing.

(9) A Community licence to be returned to any person under paragraph (7) may be returned to him by delivering it to him or by leaving it at his proper address or by sending it to him by post; and for the purposes of this paragraph and section 24 of the Interpretation Act (Northern Ireland) 1954 in its application to this paragraph the proper address of any person shall be his latest address as known to the person returning the Community licence.

(10) In this Article "period of disqualification" means, in relation to a Community licence holder, the period for which he is ordered by the court to be disqualified (otherwise than under Article 41).]

F76 SR 1997/241

Effect of endorsement on Community licence holders

92B.—(1) An order that any particulars or penalty points are to be endorsed on the counterpart of any Community licence held by the person convicted shall operate as an order that—

- (a) the counterpart of any Community licence which he may then hold, or
- (b) the counterpart of any licence or Community licence which he may subsequently obtain,

is to be so endorsed until he becomes entitled under paragraph (3) to have a counterpart of his Community licence, or a licence and its counterpart, issued to him free from the particulars or penalty points.

(2) On the issue of a new counterpart of a Community licence or a new licence to a person, any particulars or penalty points ordered to be endorsed on the counterpart of any Community licence held by him shall be entered on the new counterpart or the counterpart of the new licence (as the case may be) unless he has become entitled under paragraph (3) to have a new counterpart of his Community licence or a new licence issued to him free from those particulars or penalty points.

(3) A person the counterpart of whose Community licence has been ordered to be endorsed is entitled to have issued to him with effect from the end of the period for which the endorsement remains effective (as determined in accordance with Article 50(4))—

- (a) a new counterpart of any Community licence then held by him free from the endorsement if he makes an application to the Department for that purpose in such manner as the Department may determine, or

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- (b) 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).

Application to Crown

93.—(1) Articles 5 to 7, 18, 19, 23 and 54 and the provisions connected with the licensing of drivers apply to vehicles and persons in the public service of the Crown.

- (2) To the extent provided by paragraph (1) and Article 94, this Order binds the Crown.

Proceedings in respect of offences committed in connection with Crown vehicles

94.—(1) Where an offence under the Road Traffic Orders is alleged to have been committed in connection with a vehicle in the public service of the Crown, proceedings may be brought in respect of the offence against a person nominated for the purpose on behalf of the Crown.

(2) Subject to paragraph (3), where any such offence is committed any person so nominated shall also be guilty of the offence as well as any person actually responsible for the offence (but without prejudice to proceedings against any person so responsible).

- (3) Where any person is convicted of an offence by virtue of this Article—
 - (a) no order is to be made on his conviction save an order imposing a fine,
 - (b) payment of any fine imposed on him in respect of that offence is not to be enforced against him, and
 - (c) apart from the imposition of any such fine, the conviction is to be disregarded for all purposes other than any appeal (whether by way of case stated or otherwise).

Application of certain provisions of Order to trolley vehicles

95.—(1) The Department may by regulations, made subject to negative resolution, provide that such of the provisions mentioned in paragraph (2) as are specified in the regulations shall not apply, or shall apply with modifications, to all trolley vehicles or to trolley vehicles of a specified class.

(2) The provisions referred to in paragraph (1) are Articles 3 to 6, 11, 12, 21, 24, 25, 27 to 31, 33, 35 to 38 and 40 to 53 of this Order.

- (3) Regulations under this paragraph—
 - (a) may include such transitional provisions as appear to the Department to be necessary or expedient, and
 - (b) may make such amendments to any local Act, which regulates the use of trolley vehicles, as appear to the Department to be necessary or expedient in consequence of the regulations or in consequence of the application to any trolley vehicles of any of the provisions mentioned in paragraph (2).

- (4) In this Article “trolley vehicle” has the meaning given in Article 2(2) of the Order of 1995.

Transitional provisions and savings

96.—(1) The repeal by this Order of any provision of the Road Traffic Orders does not affect the operation of the repealed provision in relation to offences committed before the coming into operation of this Order or to appeals against or suspension of disqualification by virtue of convictions for offences so committed or against orders made in consequence of such convictions.

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(2) A conviction of an offence mentioned in paragraph (3) shall be treated as a conviction of an offence mentioned in sub-paragraphs (a) to (d) of Article 35(3).

(3) The offences are—

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

(i) Article 143(1);

(ii) Article 144(1)(a); and

(iii) Article 146, being an offence arising from his failure to provide a specimen required to ascertain either his ability to drive or the proportion of alcohol in his breath, blood or urine (as the case may be) at the time he was driving or attempting to drive;

as those provisions had effect immediately before their repeal by the Order of 1995;

(b) an offence under any of the following provisions of the Order of 1981, namely Articles 141, 144, 145 and 147, as those Articles had effect before the coming into operation of Part III of the Road Traffic (Amendment) (Northern Ireland) Order 1991, being an offence committed by or arising out of driving, or attempting to drive, a motor vehicle on a road or other public place.

Article 97—Amendments and repeals

Status:

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