



2011 CHAPTER 24

PART 6

ALTERNATIVES TO PROSECUTION

CHAPTER 1

PENALTY NOTICES

Procedure

Challenge to notice

68.—(1) This section applies where—

- (a) a person who has received notice of the registration of a sum under section 67 for enforcement against that person as a fine makes a statutory declaration to the effect mentioned in subsection (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 fixed penalty clerk.

(2) The statutory declaration must state—

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

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

- (4) In any case within subsection (2)(b)—
- (a) the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered 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 to be tried in respect of the alleged offence as stated in the declaration.
- (5) References in this section to the relevant penalty notice are to the penalty notice relating to the penalty concerned.
- (6) In any case within subsection (2)(b), Article 19(1)(a) of the [Magistrates' Courts \(Northern Ireland\) Order 1981 \(NI 26\)](#) (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 subsection (1).
- (7) Subsection (8) applies where, on the application of a person who has received notice of the registration of a sum under section 67 for enforcement against that person as a fine, it appears to a court of summary jurisdiction that it was not reasonable to expect that person to serve, within 21 days of the date on which that person received the notice, a statutory declaration to the effect mentioned in subsection (2).
- (8) The court may accept service of such a declaration by that person after that period has expired; and a statutory declaration so accepted shall be taken to have been served as required by subsection (1).
- (9) In this section 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.
- (10) For the purposes of this section, a person shall be taken to receive notice of the registration of a sum under section 67 for enforcement against that person as a fine when that person receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.
- (11) Nothing in this section is to be read as prejudicing any rights a person may otherwise have by virtue of the invalidity of any action purportedly taken under this Chapter which is not in fact authorised by this Chapter in the circumstances of the case.
- (12) Accordingly, references in this section to the registration of any sum or to any other action taken under this Chapter are not to be read as implying that the registration or action was validly made or taken in accordance with that provision.