



# Road Traffic (Amendment) Act (Northern Ireland) 2016

## 2016 CHAPTER 11

An Act to Amend the law relating to the prescribed limit of alcohol for drink-driving offences; to make further provision for breath testing; to make provision relating to certain offences being specified as fixed penalty offences; to amend the law relating to disqualification on conviction of certain offences; to amend the law, as respects certain vehicles, relating to the requirements to be satisfied to take a test of competence to drive and the restrictions to which newly qualified drivers are subject for a period after passing such a test; to make provision relating to completion of an approved course as an alternative to licence revocation during a new driver's probationary period and extending requirements to wear protective headgear; and for connected purposes. [23rd March 2016]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

## PART 1

### Defined expressions in this Act

#### **Defined expressions in this Act**

1. In this Act—

“the New Drivers Order” means the Road Traffic (New Drivers) (Northern Ireland) Order 1998,

“the Offenders Order” means the Road Traffic Offenders (Northern Ireland) Order 1996,

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

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

“the Order of 2007” means the Road Traffic (Northern Ireland) Order 2007.

## PART 2

### Drink-driving

#### *“The prescribed limit”*

#### **“The prescribed limit”**

2.—(1) The Order of 1995 is amended as follows.

(2) In paragraph (2) of Article 13 (interpretation of Articles 14 to 21), the definition of “the prescribed limit” is omitted.

(3) After that Article, insert—

#### **“13A “The prescribed limit”**

(1) “The prescribed limit” shall be construed, for the purposes of Articles 14 to 21, in accordance with this Article.

(2) The prescribed limit, in the case of a person who is not a specified person, is (as the case may require)—

- (a) 22 microgrammes of alcohol in 100 millilitres of breath,
- (b) 50 milligrammes of alcohol in 100 millilitres of blood, or
- (c) 67 milligrammes of alcohol in 100 millilitres of urine.

(3) The prescribed limit, in the case of a specified person, is (as the case may require)—

- (a) 9 microgrammes of alcohol in 100 millilitres of breath,
- (b) 20 milligrammes of alcohol in 100 millilitres of blood, or
- (c) 27 milligrammes of alcohol in 100 millilitres of urine.

(4) The Department may by order amend paragraph (2)(a) to (c) or (3)(a) to (c) to specify different proportions of alcohol to breath, blood and urine to any of those for the time being specified there.

(5) For the purposes of paragraphs (2) and (3), a specified person is a person who at the time of the alleged offence—

- (a) is the holder of a provisional licence,
  - (b) has been a qualified driver for not more than 2 years,
  - (c) is the holder of a licence authorising the holder to drive a motor vehicle in a specified category and is driving, attempting to drive or in charge of such a vehicle,
  - (d) is the holder of a taxi driver's licence and is driving, attempting to drive or in charge of a taxi when it is being used in standing or plying for hire or reward or to carry passengers for hire or reward,
  - (e) is purporting to be the holder of a licence mentioned in subparagraph (c) or (d) and is driving, attempting to drive or in charge of a motor vehicle in a specified category or taxi, or
  - (f) does not hold a licence authorising him to drive a motor vehicle of the category or class which he is driving or attempting to drive.
- (6) For the purposes of—
- (a) paragraph (5)(b)—
    - (i) a person becomes a qualified driver on the first occasion on which he passes any test of competence to drive mentioned in paragraph (2)(a) or (b) of Article 3 of the Road Traffic (New Drivers) (Northern Ireland) Order 1998,
    - (ii) in determining whether a person has been a qualified driver for not more than 2 years, any time during which a person is disqualified from holding or obtaining a licence, or holds a provisional licence only, shall be disregarded,
  - (b) paragraph (5)(c) and (e), “a motor vehicle in a specified category” means a motor vehicle included in any of the following categories specified in column (1) of Schedule 1 to the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 (and defined in column (2) of that Schedule opposite that category), namely C, C1, D, D1, C+E, C1+E, D+E, D1+E or F,
  - (c) paragraph (5)(d), “taxi driver's licence” means a licence granted under section 23 of the Taxis Act (Northern Ireland) 2008,
  - (d) paragraphs (5)(d) and (e), “taxi” has the same meaning as in section 57(1) of that Act,
  - (e) paragraph (5)(f)—
    - “category” means any category specified in column (1) of Schedule 1 to the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 (and defined in column (2) of that Schedule opposite that category),
    - “class” means a class included in any such category.

- (7) The Department may by order—
- (a) amend paragraph (5) by adding any further description of specified person or altering or omitting any description of specified person for the time being mentioned there,
  - (b) make any amendment of paragraph (6) that it considers appropriate for giving full effect to any such amendment of paragraph (5),
  - (c) amend paragraph (6)(b) by adding any further category of motor vehicle or altering or omitting any category for the time being mentioned there.”.

*Breath testing at authorised check-points*

**Breath testing at authorised check-points**

- 3.—(1) After Article 17C of the Order of 1995, insert—

**“17CA Breath testing at authorised check-points**

- (1) A constable who is on duty at a check-point may require—

- (a) a person driving a motor vehicle stopped at the check-point, and
- (b) any person in charge of such a vehicle,

to co-operate with a check-point breath test administered to the person by the constable or another constable.

(2) A check-point breath test is a procedure whereby the person to whom the test is administered provides a specimen of breath to be used for the purpose of obtaining, by means of a device of a type approved for the purpose of administering a preliminary breath test, an indication whether the proportion of alcohol in the person’s breath or blood is likely to exceed the prescribed limit.

(3) The establishment of a check-point for the purposes of this Article must be authorised by a member of the Police Service of Northern Ireland, not below the rank of inspector; and a check-point for those purposes may be authorised to be established in any public place.

- (4) Authorisation under paragraph (3) must be in writing and specify—

- (a) the public place where the check-point concerned is to be located, and
- (b) the day (or days) on which, and the hours between which, it may be operated.

(5) A check-point breath test administered in reliance on this Article may be administered only at or near the check-point; and a constable may administer such a test by virtue of paragraph (1) only if the constable is in uniform.

(6) A person commits an offence if without reasonable excuse he fails to co-operate with a check-point breath test in pursuance of a requirement imposed under this Article.”.

(2) In Part 1 of Schedule 1 to the Offenders Order (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to offences under Article 17 of the Order of 1995 insert—

“Article 17CA(6)	Failure to co-operate with check-point breath test.	Summarily.	Level 3 on the standard scale.	DiscretionaryObligatory. 4”.
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#### Check-point breath tests: further provision

4.—(1) The Order of 1995 is amended as follows.

(2) In Article 13(3) (what constitutes co-operation with preliminary test), after “a preliminary test” insert “or check-point breath test”.

(3) In Article 17D (arrest following preliminary breath test)—

- (a) in paragraph (1), after “a preliminary breath test” insert “or check-point breath test”,
- (b) in paragraph (2), in sub-paragraph (a), after “Article 17” insert “or a check-point breath test under Article 17CA”,
- (c) in paragraph (2A), after “the preliminary test” insert “or check-point breath test”.

(4) In Article 18 (provision of specimens for analysis)—

(a) after paragraph (1), insert—

“(1A) A constable may, subject to the following provisions of this Article, require a person whom he may require to co-operate with a check-point breath test under Article 17CA—

- (a) to provide 2 specimens of breath for analysis by means of a device mentioned in paragraph (1)(a), or
- (b) to provide a specimen of blood or urine for a laboratory test.”,
- (b) in paragraph (3), after “paragraph (1)(a)” insert “or (1A)(a)”,
- (c) in paragraph (4), after “(1)(b)” insert “or (1A)(b)”.

*Evidential specimens***Evidential breath test without preliminary breath test or check-point breath test**

- 5.—(1) The Order of 1995 is amended as follows.
- (2) In Article 17D (power of arrest)—
- (a) after paragraph (1A) insert—
- “(1B) A constable may arrest a person without warrant if—
- (a) the constable—
- (i) in accordance with paragraph (2)(c) of Article 18, has required him to provide specimens of breath under that Article, and
- (ii) has not required him to co-operate with a preliminary breath test or a check-point breath test, and
- (b) as a result of the provision by the person of such specimens, the constable reasonably suspects that the proportion of alcohol in his breath or blood exceeds the prescribed limit.”,
- (b) in paragraph (2), for “and” after sub-paragraph (a) substitute “or
- (aa) the person fails to provide a specimen of breath in pursuance of a requirement under Article 18 made in accordance with paragraph (2)(c) of that Article, and”,
- (c) in paragraph (2A)—
- (i) the words from “may,” to the end become sub-paragraph (a),
- (ii) after that sub-paragraph insert—
- “(b) may, instead of being taken to a police station, in the circumstances mentioned in paragraph (1B)(a), be detained at or near the place where the requirement to provide specimens of breath was, or would have been, made.”.
- (3) In Article 18 (provisions of specimens for analysis)—
- (a) for paragraph (2), substitute—
- “(2) A requirement under this Article to provide specimens of breath may be made only—
- (a) at a police station or hospital,
- (b) in circumstances in which—
- (i) Article 17(5) applies, and
- (ii) the constable has imposed a requirement on the person concerned to co-operate with a preliminary breath test,

at or near the place where the preliminary breath test was so administered or would have been so administered but for the failure to co-operate with it, or

- (c) in circumstances in which Article 17(5) does not apply, at a place other than a police station or hospital if—
  - (i) the constable reasonably suspects that the proportion of alcohol in the person's breath or blood exceeds the prescribed limit, and
  - (ii) a device mentioned in paragraph (1)(a) is available to be used for the taking of the specimens.”
- (b) paragraphs (2A) and (2B) are omitted,
- (c) in paragraph (2C), for “relevant breath test” substitute “preliminary breath test or check-point breath test”,
- (d) in paragraph (3), after “is” insert “in uniform and”.

### **Choice of specimens**

6. Article 19 of the Order of 1995 (choice of specimens of breath) is amended as follows—

- (a) for the title, substitute “Lower of 2 specimens of breath to be used”,
- (b) in paragraph (1), the words “Subject to paragraph (2),” are omitted,
- (c) paragraphs (2), (2A) and (3) are omitted.

### *Fixed penalty offences*

### **Graduated penalty points for certain drink-driving offences as fixed penalty offences**

7. In Part 1 of Schedule 1 to the Offenders Order (prosecution and punishment of offences under the Road Traffic Orders)—

- (a) in the entry relating to offences under Article 16(1)(a) of the Order of 1995 (driving or attempting to drive with excess alcohol in breath, blood or urine), in column (7), after “3-11” insert “or appropriate penalty points (graduated fixed penalty)”,
- (b) in the entry relating to offences under Article 16(1)(b) of that Order (being in charge of a motor vehicle with excess alcohol in breath, blood or urine), in column (7), for “10” substitute “3-11 or appropriate penalty points (graduated fixed penalty)”.

**Reduced penalty for course completion**

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

(2) After paragraph (2) of Article 59 (provision that may be included in an order prescribing the amount of fixed penalty for a fixed penalty offence), insert—

“(2A) In relation to an offence which is specified in an order under Article 57(2) as a fixed penalty offence, paragraph (2) shall be read as if the circumstances mentioned there include (in particular) also whether, by the relevant date, the offender satisfactorily completes an approved course specified in the fixed penalty notice or conditional offer in question.”.

(3) After paragraph (3) of that Article, add—

“(4) In paragraph (2A)—

“an approved course” means a course approved by the Department for the purposes of Article 36 in relation to offences under the same statutory provision as the offence in question;

“conditional offer” means a notice under Article 80;

“the relevant date” means such date, not later than 6 months after the day on which the fixed penalty notice or conditional offer for the offence in question is given to the offender, as is specified in the notice or offer.”.

(4) In paragraph (1) of Article 64A (effect of endorsement of driving record without hearing: penalty points attributable on conviction also attributable as fixed penalty), at the beginning insert “Subject to Article 64B,”.

(5) After that Article, insert—

**“64B Qualification of Articles 64A(1) and 82A(7): reduced penalty points for course completion**

(1) In relation to an offence which is specified in an order under Article 57(2) as a fixed penalty offence, Article 30(3B) shall be read as if the circumstances mentioned there include (in particular) also whether, by the relevant date, the offender satisfactorily completes an approved course specified in the fixed penalty notice or conditional offer in question.

(2) For the purposes of paragraph (1), “an approved course”, “conditional offer” and “the relevant date” each has the same meaning as in Article 59(4).”.

(6) In paragraph (7) of Article 82A (effect of endorsement of driving record where fixed penalty under conditional offer paid: penalty points attributable on conviction also attributable as fixed penalty), at the beginning insert “Subject to Article 64B,”.



**Approved course: completion and failure to complete**

9.—(1) After Article 59 of the Offenders Order (amount of fixed penalty for fixed penalty offence), insert—

**“59A Certificate of completion of approved course**

(1) This Article and Articles 59B and 59C apply where—

- (a) the amount of fixed penalty for a fixed penalty offence, by virtue of an order under Article 59(1) (and pursuant to Article 59(2A)) is dependent on whether, by the relevant date, the offender satisfactorily completes an approved course, or
- (b) the number of penalty points attributable to such an offence, by virtue of an order under Article 30(3A) (and pursuant to Article 64B(1)) is so dependent.

(2) An offender shall be regarded as having completed an approved course satisfactorily only if a certificate that the offender has done so, given by the course provider, is received by the Chief Constable not later than 28 days after the relevant date.

(3) The course provider shall give a certificate referred to in paragraph (2) to the offender not later than 14 days after the relevant date 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.

(4) Where the course provider decides not to give a certificate referred to in paragraph (2) to the offender, the provider 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 relevant date.

(5) An offender to whom notice is given under paragraph (4) may, not later than 21 days after the date of the notice, apply to the Chief Constable for a declaration that the course provider’s decision not to give a certificate referred to in paragraph (2) was contrary to paragraph (3).

(6) If the Chief Constable grants an application under paragraph (5), the certificate referred to in paragraph (2) shall be treated for the purposes of that paragraph as having been duly received by the Chief Constable.

(7) If, 14 days after the relevant date, the course provider has given neither—

- (a) a certificate referred to in paragraph (2), nor
- (b) notice under paragraph (4),

the offender may, not later than 21 days after the 14th day, apply to the Chief Constable for a declaration that the course provider is in default.

(8) If the Chief Constable grants an application under paragraph (7), the certificate referred to in paragraph (2) shall be treated for the purposes of that paragraph as having been duly received by the Chief Constable.

(9) Where the Chief Constable receives a certificate under paragraph (2), or grants an application under paragraph (5) or (7), notice of that fact must be sent by or on behalf of the Chief Constable to the Department.

(10) In—

- (a) this Article, “an approved course” and “the relevant date” have the same meanings as in Article 59(4),
- (b) this Article and Article 59B, “course provider” means the person by whom the course is, or is to be, provided.

#### **59B Approved course completion: further provision**

(1) A certificate referred to in paragraph (2) of Article 59A is to be in such form and to contain such particulars as may be determined by the Department.

(2) Notice by a course provider under paragraph (4) of that Article shall specify the ground on which it is given and be in such form as may be determined by the Department.

(3) Notice under that paragraph shall, for the purposes of that paragraph, be treated as given to the offender if it was sent by registered post or recorded delivery service addressed to the offender at his last known address, notwithstanding that it was returned as undelivered or was for any other reason not received by the offender.

(4) In the application of section 24 of the Interpretation Act (Northern Ireland) 1954 (service of documents) to giving notice under paragraph (4) of Article 59A, in subsection (1) the word “registering” is omitted.

(5) In determining, for the purposes of paragraph (5) or (7) of that Article, whether any instruction or requirement of a course provider was reasonable, the Chief Constable shall have regard to any guidance given to the provider under Article 38(1).

(6) Notice under paragraph (9) of Article 59A must be sent in such manner and to such address, and must contain such particulars, as the Department may determine.

**59C Failure to complete course: consequences**

(1) Paragraph (2) applies where a certificate referred to in paragraph (2) of Article 59A that the offender has completed an approved course satisfactorily is neither—

- (a) received by the Chief Constable in accordance with that paragraph, nor
- (b) treated by virtue of paragraph (6) or (8) of that Article as having been duly received by the Chief Constable.

(2) Notice shall be given to the offender by or on behalf of the Chief Constable—

- (a) specifying—
  - (i) the amount of fixed penalty to be paid in consequence of the offender's failure by the relevant date satisfactorily to complete an approved course,
  - (ii) the date by which the fixed penalty must be paid, and
  - (iii) the clerk of petty sessions to whom, and the address at which, it may be paid, and
- (b) requiring the offender to deliver, in accordance with paragraph (3), the notice and (if the offender is the holder of a licence and the offence to which the notice relates is an offence involving obligatory endorsement) the offender's licence.

(3) The notice and (as the case may be) licence must be delivered by the offender—

- (a) in person,
- (b) before the expiry of 14 days after the date of the notice,
- (c) to a constable or authorised person at the police station specified in the notice.

(4) Notice must be given by or on behalf of the Chief Constable to the fixed penalty clerk of the giving of notice under paragraph (2) and the terms of any such notice.

(5) A licence surrendered in accordance with notice under paragraph (2) shall be sent to the fixed penalty clerk.

(6) An offender who fails to comply with notice under paragraph (2) commits an offence.

(7) Notice under paragraph (2) must be in such form as may be determined by the Department.

(8) Where, on the expiry of the period specified in any notice given under paragraph (2), the amount of fixed penalty specified in the notice has not been paid, the fixed penalty clerk must notify the Chief Constable.

(9) In this Article, “authorised person” has the same meaning as in relation to a fixed penalty notice given at a police station (see Article 60(8)).”.

(2) In paragraph (1) of Article 62 of the Offenders Order (receipt for licence on its surrender), after “Article 60” insert “or (as the case may be) notice under Article 59C(2)”.

(3) In Part 1 of Schedule 1 to that Order (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to offences under Article 38A(12) of that Order insert—

“Article 59C(6)	Failure to comply with notice under Article 59C(2) requiring payment of fixed penalty and delivery of licence.	Summarily.	Level 3 on the standard scale.”.
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#### **Payment of fixed penalty: failure to complete course**

**10.—**(1) In Article 61(3)(b) of the Offenders Order (effect of fixed penalty notice given under Article 60), after “period” add “or (as the case may be) the end of the period specified in a notice given to him in relation to the offence under Article 59C(2)”.

(2) In Article 74 of that Order (method of payment of fixed penalty)—

- (a) in paragraph (1), after “notice” insert “or notice under Article 59C(2)”,
- (b) in paragraph (2), after “notice” insert “, or (as the case may be) notice under Article 59C(2),”,
- (c) in paragraph (3), after “notice” insert “, or (as the case may be) notice under Article 59C(2),”,
- (d) in paragraph (5)—
  - (i) for “penalty or fixed penalty notice” substitute “penalty, fixed penalty notice or notice under Article 59C(2)”,
  - (ii) for “the fixed penalty notice” to the end, substitute “the notice in question”.

(3) In Article 75(4)(a) of that Order (registration certificate for enforcement of unpaid fixed penalty), after “notice” insert “or notice under Article 59C(2)”.

**Endorsement of further penalty points: failure to complete course**

**11.—(1)** In Article 63A of the Offenders Order (endorsement of driving records without hearings)—

- (a) in paragraph (1), after “Article 60” insert “or notice under Article 59C(2)”,
- (b) in paragraph (3)—
  - (i) after “period” insert “or (as the case may be) of the Article 59C(2) notice period”,
  - (ii) after “Article 60” insert “or (as the case may be) in pursuance of notice under Article 59C(2)”,
- (c) in paragraph (5)(b), after “period” insert “or (as the case may be) the end of the Article 59C(2) notice period”,
- (d) after paragraph (6), add—

“(7) In this Article, “the Article 59C(2) notice period” means the period specified in a notice relating to the offence under Article 59C(2).”.

**(2)** In Article 82A of that Order (endorsement of driving records where penalty under conditional offer paid)—

- (a) in paragraph (1), after “Article 80(1)” insert “or (as the case may be) notice under Article 59C(2)”,
- (b) in paragraph (2)(b), after “80(1A)” insert “or (as the case may be) notice under Article 59C(2)”,
- (c) in paragraph (3)(b), after “conditional offer” insert “or (as the case may be) notice under Article 59C(2)”.

*Disqualification on conviction***Minimum disqualification: offence under Article 14(1)(b) or 16(1)(a) of the Order of 1995**

**12.—(1)** In paragraph (1) of Article 35 of the Offenders Order (minimum disqualification on conviction of certain offences), after “disqualification,” insert “(except where paragraph (1ZA), (1ZB) or (1ZC) provides otherwise)”.

**(2)** After that paragraph, insert—

“(1ZA) Paragraph (1) shall apply as if the reference there to 12 months were a reference to 6 months, in relation to a person convicted of an offence under Article 16(1)(a) of the Order of 1995 (driving or attempting to drive when exceeding the prescribed limit), where the proportion of alcohol in his body did not exceed—

- (a) 34 microgrammes per 100 millilitres of breath,
- (b) 79 milligrammes per 100 millilitres of blood, or

(c) 105 milligrammes per 100 millilitres of urine.

(1ZB) Paragraph (1) shall apply as if the reference there to 12 monthswere a reference to 18 months, in relation to a person convicted of an offence under Article 14(1)(b) of the Order of 1995 (causing death, or grievous bodily injury, by careless driving when exceeding the prescribed limit) or Article 16(1)(a) of that Order, where the proportion of alcohol in his body—

- (a) exceeded 54 microgrammes, but did not exceed 87 microgrammes, per 100 millilitres of breath,
- (b) exceeded 124 milligrammes, but did not exceed 199 milligrammes, per 100 millilitres of blood, or
- (c) exceeded 165 milligrammes, but did not exceed 265 milligrammes, per 100 millilitres of urine.

(1ZC) Paragraph (1) shall apply as if the reference there to 12 monthswere a reference to 2 years, in relation to a person convicted of an offence under Article 14(1)(b) or 16(1)(a) of the Order of 1995, where the proportion of alcohol in his body—

- (a) exceeded 87 microgrammes per 100 millilitres of breath,
- (b) exceeded 199 milligrammes per 100 millilitres of blood, or
- (c) exceeded 265 milligrammes per 100 millilitres of urine.”.

### **Increased disqualification for repeat offences**

**13.—**(1) In paragraph (3) of Article 35 of the Offenders Order (disqualification on conviction of certain repeat offences within 10 years)—

- (a) for “paragraph (1)” substitute “paragraphs (1), (1ZA), (1ZB) and (1ZC)”,
- (b) for “reference to 12 months” substitute “references respectively there to 12 months, 6 months, 18 months and 2 years”.

(2) After that paragraph, insert—

“(3A) For the purposes of paragraph (3), endorsement of the person’sdriving record in accordance with Article 63A for a prior offence falling within any of sub-paragraphs (a) to (e) of that paragraph, within the 10 years immediately preceding the commission of the current offence, is to be treated as conviction of the prior offence.”.

(3) In paragraph (4)(b) of that Article (disqualification on conviction of other repeat offences within 3 years), after “a person” insert “(other than a person falling within paragraph (1ZA), (1ZB) or (1ZC))”.

**Reduced disqualification for course completion**

**14.—**(1) Article 36 of the Offenders Order (reduced disqualification period for attendance on course) (as substituted by Article 11(1) of the Order of 2007) is amended as follows.

(2) After paragraph (4), insert—

“(4A) Where the person is convicted of a relevant drink offence, the court must, unless for special reasons it thinks that to do so is inappropriate and subject to paragraph (9), make an order that the period of disqualification imposed under Article 35 (“the unreduced period”) shall be reduced if, by the relevant date, the offender satisfactorily completes an approved course specified in the order.”.

(3) In paragraph (5)—

- (a) for “this Article applies” substitute “the person is convicted of a specified offence”,
- (b) for “period”, where it first occurs, to “period”) substitute “unreduced period”.

(4) In paragraph (6), for “paragraph (5)” substitute “paragraphs (4A) and (5)”.

(5) In paragraph (9)—

- (a) after sub-paragraph (b), insert “and”,
- (b) the word “and” after sub-paragraph (c) is omitted,
- (c) sub-paragraph (d) is omitted.

*Miscellaneous***Administration costs in relation to approved courses**

**15.** After Article 54 of the Offenders Order, insert—

**“54A Administration costs in relation to approved courses**

(1) The Department may, by regulations made subject to negative resolution, make provision as to—

- (a) the payment to the Department by course providers of courses approved for the purposes of Article 32A or 36 of costs reasonably incurred by it in relation to the management and administration of such courses (including monitoring, reviewing and evaluating their content and effectiveness and issuing guidance to course providers as to the conduct of such courses),
- (b) the apportionment of such costs among providers of such courses.

(2) In this Article, “course provider” means the person by whom the course is, or is to be, provided.”.

## PART 3

### Learner and new drivers

#### *Minimum period of holding provisional licence in certain cases*

#### **Provisional licence to be held for minimum period in certain cases**

**16.—**(1) The Order of 1981 is amended as follows.

(2) In Article 5 (tests of competence to drive)—

(a) after paragraph (2), insert—

“(2ZA) Except as provided by paragraph (2ZB) and under paragraph(4A), no person holding a provisional licence authorising him to drive a category B motor vehicle is to be permitted to take the part of the test of competence to drive such a vehicle that is the practical test unless he has held the licence for not less than 6 months immediately before the date on which the practical test is to be taken.

(2ZB) Paragraph (2ZA) does not apply to—

(a) a person who, while he holds the provisional licence, also holds a licence or permit which, by virtue of an order made under the Motor Vehicles (International Circulation) Act 1952, entitles him to drive a category B motor vehicle in Northern Ireland,

(b) a person who is required to pass a test of competence to drive by virtue of—

(i) an order under Article 41 of the Offenders Order (or section 36 of the Road Traffic Offenders Act 1988), or

(ii) Article 6 of, or paragraph 6 or 9 of Schedule 1 to, the Road Traffic (New Drivers) (Northern Ireland) Order 1998 (or section 4 of, or paragraph 6 or 9 of Schedule 1 to, the Road Traffic (New Drivers) Act 1995).

(2ZC) The Department may by order—

(a) amend paragraph (2ZA) by—

(i) adding any further category of motor vehicle or altering or omitting any category for the time being mentioned there,

(ii) substituting a different period of time for the period for the time being specified there,



- (b) make any amendment of paragraph (2ZB), or Article 19D, that it considers appropriate for giving full effect to any such amendment of paragraph (2ZA).

(2ZD) An order under paragraph (2ZC) shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”,

- (b) after paragraph (4), insert—

“(4A) Regulations may prescribe cases in which persons are exempt from the requirement imposed by paragraph (2ZA) and may in particular—

- (a) limit the exemption to persons in prescribed circumstances,
- (b) limit the exemption to a prescribed period,
- (c) attach conditions to the exemption.”.

- (3) In Article 19D ((interpretation of Part 2), in paragraph (1) at the appropriate places insert—

““category B motor vehicle” has the same meaning as in the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 (see regulation 3 and Schedule 1);

“practical test” has the same meaning as in the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 (see regulation 2(1));”.

*Training of provisional licence holders in certain cases etc.*

### **Approved programmes of training: category B motor vehicles and motor bicycles**

17.—(1) The Order of 1981 is amended as follows.

- (2) After Article 5 (tests of competence to drive), insert—

#### **“5A Tests of competence to drive: training before taking**

(1) Except as provided under paragraph (6), no person submitting himself for the part of the test of competence to drive a vehicle mentioned in paragraph (2) that is the practical test is to be permitted to take the practical test unless he produces a logbook, either—

- (a) with his application for an appointment for the practical test, or
- (b) to the person who is to conduct the test.

(2) The vehicles are—

- (a) a category B motor vehicle,
- (b) a motor bicycle.

(3) The Department may by order amend paragraph (2) by adding any further category of motor vehicle or altering or omitting any category for the time being mentioned there.

(4) An order under paragraph (3) shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(5) Except as provided under paragraph (6), no person submitting himself for the part of the test of competence to drive a motor bicycle that is the special manoeuvres test or the practical test is to be permitted to take the special manoeuvres test or practical test unless he produces the prescribed certificate of completion by him of an approved training course for motor cyclists, either—

- (a) with his application for an appointment for the test, or
- (b) to the person who is to conduct the test.

(6) Regulations may prescribe cases in which persons are exempt from the requirement imposed by paragraph (1) or (5).

(7) Regulations under paragraph (6) may—

- (a) limit the exemption to persons in prescribed circumstances,
- (b) limit the exemption to a prescribed period,
- (c) attach conditions to the exemption,
- (d) regulate applications for, and the issue and form of, certificates evidencing a person's exemption from the requirement.

(8) Regulations may make provision as to the making, in connection with the design, supply and issue of logbooks, of reasonable charges in relation to the discharge of the functions of the Department in connection with logbooks (including the issuing of guidance in connection with logbooks and the taking of other steps to inform people in relation to logbooks).”.

(3) After Article 13A (residence requirement for grant of licences), insert—

**“13B Approved programmes of training: category B motor vehicles or motor bicycles**

(1) Regulations may make provision as respects the training, in the driving of category B vehicles or motor bicycles of persons wishing to obtain licences authorising the driving of such vehicles, by means of programmes of training in accordance with the regulations.

(2) Regulations under paragraph (1) may in particular make provision as to—

- (a) the nature of the relevant programmes of training,
- (b) the evidence to be recorded as to the completion of such a programme,

- (c) the period of validity of the evidence and any document in which it is to be recorded,
- (d) the making of reasonable charges in relation to the discharge of the functions of the Department under the regulations, the issuing of guidance in connection with relevant programmes of training and the taking of other steps to inform people in relation to such programmes.

### **13C Approved training courses for motor bicycles**

(1) Regulations may make provision as respects the training, in the driving of motor bicycles of persons wishing to obtain licences authorising the driving of motor bicycles, by means of courses of training provided in accordance with the regulations.

(2) Regulations under paragraph (1) may in particular make provision as to—

- (a) the nature of the courses of training,
- (b) the approval by the Department of the persons providing the courses and the withdrawal of its approval,
- (c) the maximum amount of any charges payable by persons undergoing the training,
- (d) certificates evidencing the successful completion by persons of a course of training and the supply by the Department of the forms which are to be used for such certificates,
- (e) the making, in connection with the supply of forms of certificates, of reasonable charges in relation to the discharge of the functions of the Department under the regulations.”.

(4) In Article 19D (interpretation of Part 2)—

(a) in paragraph (1), at the appropriate places, insert—

““category A motorcycle”, category A1 motorcycle” and category A2 motorcycle” each has the same meaning as in the Motor Vehicle (Driving Licences) Regulations (Northern Ireland) 1996 (see regulation 3 and Schedule 1);

“special manoeuvres test” has the same meaning as in the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 (see regulation 2(1));”.

(b) after that paragraph, insert—

“(1ZA) In this Part, “logbook” means a document—

- (i) in which is recorded any driving lessons, or practice, undertaken by a person in preparation for the practical test, the person’s progress through the relevant approved

programme of training and such other information as the Department may determine;

- (ii) which is signed by an appropriate person, as confirmation that the person signing is satisfied that the person preparing for the practical test has successfully completed the relevant approved programme of training.

(1ZB) In paragraph (1ZA)—

(a) “an appropriate person”—

(i) in relation to a category B motor vehicle, is an approved driving instructor or a qualified driver;

(ii) in relation to a category A1 motorcycle, is an approved motorcycle instructor or a qualified driver;

(iii) in relation to a category A or A2 motorcycle, is an approved motorcycle instructor;

(b) “approved driving instructor” and “approved motorcycle instructor” means a person who is registered in the register maintained by the Department under Article 51 of the Order of 2007 for the purposes of Part 5 of that Order, to give instruction (in accordance with Article 48 of that Order) in relation to the driving of a category B motor vehicle or (as the case may be) a motor bicycle;

(c) “qualified driver”, in relation to a category B motor vehicle, has the same meaning as for the purposes of regulation 12 of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 (see regulation 11);

(d) “qualified driver”, in relation to a category A1 motorcycle, means a person who—

(i) is 21 years of age or over;

(ii) holds a full licence to drive a category A1 motorcycle by virtue of having passed a test referred to in Article 19AC(2);  
and

(iii) has held the full licence for a continuous period of not less than 3 years or for periods amounting in aggregate to not less than 3 years;

(e) “the relevant approved programme of training” means the programme of training prescribed in regulations made under Article 13B(1) for category B motor vehicles or (as the case may be) motor bicycles.”,

(c) in paragraph (1A), for “13(3A)” substitute “13C(1)”.

(5) In Article 174 (false statements, forgery etc. in connection with certain documents)—

(a) in paragraph (2A)—

(i) after sub-paragraph (d) insert—

“(da) any logbook required by paragraph (1) of Article 5A to be produced in relation to taking the practical test for a vehicle referred to in paragraph (2) of that Article;”,

(ii) in sub-paragraph (e) for “13(3A)” substitute “13C(1)”,

(b) after that paragraph insert—

“(2AB) In paragraph (2A), “logbook” and “practical test” have the samemeaning as in Part II.”.

### **Revocation of licence: forged etc. logbook**

**18.**—(1) In the Order of 1981—

(a) in Article 11A (driving after refusal or revocation of licence), in paragraph (1)(a) in sub-paragraph (ii) after “Article 10(1) or (2)” insert “or 15ZA(2)”,

(b) in the italic heading before Article 13 (grant of licences), at the end add “etc.”,

(c) after Article 15, insert—

#### **“15ZA Revocation of licence: producing etc. forged logbook**

(1) Where a person is convicted of an offence under paragraph(2)(a) or (b) of Article 174 in respect of a document referred to at paragraph (2A) (da) of that Article (a logbook), the court must send notice of the conviction to the Department.

(2) Where the Department is sent notice under paragraph (1), it mayserve notice in writing on the person—

(a) revoking his licence with effect from such date as may be specified in the notice served by it, not being earlier than the date of service,

(b) requiring him forthwith to surrender his licence to the Department.

(3) A person whose licence is revoked by notice under paragraph (2)must deliver up his licence forthwith to the Department.

(4) A person who, without reasonable excuse, fails to comply with theduty under paragraph (3) is guilty of an offence under this Order.

(5) A person does not fail to comply with the duty under paragraph (3) where—

- (a) he cannot surrender his licence forthwith in consequence of the fact that he is not in possession of it, having surrendered it to a constable or authorised person (within the meaning of Part IV of the Offenders Order) on receiving a fixed penalty notice given to him under Article 60 of that Order, and
- (b) he surrenders the licence to the Department immediately on its return to him.”.

(2) In Part 1 of Schedule 1 to the Offenders Order (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to offences under Article 15(7) of the Order of 1981 insert—

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“Article 15ZA(4)	Provisional licence holder failing, when his licence is revoked pursuant to being convicted in connection with producing etc. forged logbook, to surrender the licence.	Summarily.	Level 3 on the standard scale.”.
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*Changes to restrictions on learner and new drivers*

**Changes to restrictions on learner and new drivers**

- 19.—**(1) The Order of 1981 is amended as follows.
- (2) Article 19 (speed limit for holders of provisional licences) is omitted.
- (3) For Articles 19A (restrictions on newly qualified drivers) and 19B (speed limit for vehicle displaying R plate), substitute—

**“19AB Restrictions on newly qualified drivers for new driver period**

(1) Except as provided in paragraph (11), this Article applies to any person who becomes a qualified driver.

(2) On becoming a qualified driver the person shall, for the new driver period, be subject to the relevant specified restriction.

(3) The relevant specified restriction shall apply to the person while he is driving on a road a motor vehicle of a class prescribed (and which is of the class affected by the restriction) in respect of which he was not, immediately before he became a qualified driver, entitled to hold or obtain a full licence.

(4) In determining when the new driver period expires, any time during which a person is disqualified from holding or obtaining a licence, or holds a provisional licence only, shall be disregarded.

(5) The specified restrictions are—

(a) as respects a motor vehicle of a class prescribed for the purposes of paragraph (3), a requirement that a distinguishing mark of such a nature as may be prescribed shall be displayed, in such manner as may be prescribed, on any such motor vehicle while it is being driven by a person to whom this Article applies (“the driver”),

(b) subject to paragraph (7), in so far as a class prescribed for the purposes of paragraph (3) comprises category B motor vehicles, as respects a category B motor vehicle, a restriction that there must be a relevant accompanying person in the vehicle in a front passenger seat in accordance with paragraph (6) while—

(i) the driver is under 24 years of age and driving on a road,

(ii) the driver is driving at any time between 11 pm and 6 am,

(iii) there is more than one passenger in the vehicle (in addition to the relevant accompanying person), and

(iv) disregarding one such passenger (who may be any person), any other such passenger is a relevant passenger.

(6) For the purposes of paragraph (5)(b), in a vehicle that has more than one front seat in addition to the driver’s seat, a relevant accompanying person—

(a) while he is the only person (apart from the driver) in the front of the vehicle, may be seated in any of the other front seats,

(b) while he is not the only person (apart from the driver) in the front of the vehicle, must be seated in the front seat immediately next to the driver’s seat.

(7) The specified restriction in paragraph (5)(b) shall not apply where the motor vehicle is being used for emergency purposes or in the course of training for such use.

(8) Any person who contravenes any of the specified restrictions shall be guilty of an offence under this Order.

(9) It is a defence in proceedings for an offence under paragraph (8) which is attributable to contravention of the specified restriction in paragraph (5)(b) for a person to show that he exercised all due diligence to avoid committing such an offence.

(10) Where the Department grants or returns a licence to any person who (while driving a motor vehicle of a class specified in the licence) will be subject to any of the specified restrictions for any period during the currency of the licence, the licence shall specify (in such manner as the Department may determine) the following—

- (a) the specified restriction concerned,
- (b) the new driver period applicable to the restriction,
- (c) the class of vehicles affected by the restriction,
- (d) that the holder is subject to the specified restriction for the period while driving vehicles of that class.

(11) This Article does not apply—

- (a) to a person who at a time before passing a test of competence to drive a category A2 motorcycle or a category A motorcycle held, for a continuous period of not less than 2 years or for periods amounting in aggregate to not less than 2 years, a full licence authorising the person to drive a category A1 motorcycle,
- (b) to a person who is required to pass a test of competence to drive by virtue of—
  - (i) an order under Article 41 of the Offenders Order (or section 36 of the Road Traffic Offenders Act 1988), or
  - (ii) Article 6 of, or paragraph 6 or 9 of Schedule 1 to, the Road Traffic (New Drivers) (Northern Ireland) Order 1998 (or section 4 of, or paragraph 6 or 9 of Schedule 1 to, the Road Traffic (New Drivers) Act 1995),
- (c) to such extent and in such circumstances as may be prescribed, to a person holding a licence by reason of a test passed by him at a time when he held a licence or permit which, by virtue of an order made under the Motor Vehicles (International Circulation) Act 1952, entitled him to drive motor vehicles in Northern Ireland,
- (d) to the holder of a licence authorising him to drive, or to a person driving, motor vehicles of such classes or in such circumstances as may be prescribed.



**19AC Restrictions on newly qualified drivers for new driver period:  
further provision**

- (1) This Article applies for the purposes of Article 19AB.
- (2) A person “becomes a qualified driver” by passing any of the following tests—
  - (a) a test of competence to drive prescribed by virtue of Article 5(3),
  - (b) a Great Britain test of competence to drive which corresponds to such a test,
  - (c) a test of competence which, under Article 5(7), is a sufficient test,
  - (d) a test of competence to drive for the purpose of obtaining a British forces licence.
- (3) “Relevant specified restriction” means such of the specified restrictions as affects the motor vehicle concerned; and “the specified restrictions” means the restrictions specified in Article 19AB(5).
- (4) The “new driver period” means—
  - (a) as respects the specified restriction in paragraph (5)(a) of Article 19AB, the period of 2 years after the day on which the person becomes a qualified driver,
  - (b) as respects the specified restriction in paragraph (5)(b) of that Article, the period of 6 months after the day on which the person becomes a qualified driver.
- (5) A person is a “relevant passenger” if he—
  - (a) is 14 years of age or over but under 21 years of age,
  - (b) is not, in relation to the person driving (“the driver”), any of the relationships mentioned in paragraph (6), and
  - (c) is not a person in respect of whom the driver is entitled to a carer’s allowance by virtue of section 70 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.
- (6) The relationships are—
  - (a) a spouse or civil partner of the driver,
  - (b) a brother, sister, half-brother or half-sister of the driver,
  - (c) a child of the family.
- (7) A person is a “child of the family”, in relation to the driver, if (whether or not he has at any time lived in the same household as the driver), has been treated by the driver as a child of his family.
- (8) A person is a “relevant accompanying person” if he—
  - (a) is 21 years of age or over,

(b) holds a full licence, and

(c) has held the full licence for a continuous period of not less than 3 years or for periods amounting in aggregate to not less than 3 years.

(9) A motor vehicle is being “used for emergency purposes” if it is being used for—

(a) fire and rescue, ambulance, police, military, customs or coastguard purposes, or

(b) such other purposes as may be prescribed.

(10) The reference in paragraph (9)(a) to ambulance purposes includes a reference to the purposes of a mobile coronary care unit.

(11) Regulations under paragraph (5)(a) of Article 19AB shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(12) The Department may by order amend—

(a) paragraph (5)(b) of Article 19AB by—

(i) adding any further category of motor vehicle or altering or omitting any category for the time being mentioned there,

(ii) substituting a different age for the age for the time being specified in sub-paragraph (i) of that paragraph,

(b) paragraph (a) or (b) of the definition of “new driver period” in paragraph (4) by substituting different periods for any of the periods for the time being specified there,

(c) paragraph (5)(a) by substituting different ages for either of the ages for the time being specified there,

(d) paragraph (8)(a) by substituting a different age for the age for the time being specified there.

(13) An order under paragraph (12) shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”.

(4) In Article 177 (identification of drivers, passengers etc. in vehicles)—

(a) in sub-paragraph (a) of paragraph (1), for “names and addresses” substitute “names, addresses, ages and relationship to driver”,

(b) after sub-paragraph (b) of that paragraph, insert—

“(ba) any passenger in the vehicle shall, if required as aforesaid, give any information which it is in his power to give as regards the names, addresses, ages and relationship to the driver of any passenger at the time of the alleged offence;”.

(c) after that paragraph, insert—

“(1A) Where the offence of which the driver is alleged to be guilty is—

- (a) an offence under Article 19AB(8); and
- (b) in respect of contravention of the specified restriction in Article 19AB(5)(b) (passenger carrying restriction during new driver period),

the requirement in paragraph (1)(a) for the driver on demand to give to a constable the names, addresses, ages and relationship to the driver of any passengers carried in the vehicle at the time of the alleged offence which it is in his power to give applies whether or not the driver is the owner of the vehicle.”,

- (d) after paragraph (2), insert—

“(3) Where the alleged offence is—

- (a) under Article 19AB(8); and
- (b) in respect of contravention of the specified restriction in Article 19AB(5)(b) (passenger carrying restriction during new driver period),

the driver of the vehicle shall, if requested to do so by the constable, produce at such police station as the constable may specify, before the end of the period of 7 days beginning with the day of the request, such further evidence as regards the names, addresses, ages and relationship to the driver of any passengers in the vehicle as the constable may request.

(4) It is a defence in proceedings for an offence under this Article in relation to an offence under paragraph (8) of Article 19AB, which was attributable to contravention of the specified restriction in paragraph (5) (b) of that Article, for a person to show that he exercised all due diligence to avoid committing such an offence.”.

- (5) In Part 1 of Schedule 1 to the Offenders Order (prosecution and punishment of offences under the Road Traffic Orders)—

- (a) for the entry relating to offences under Article 19A and 19B of the Order of 1981 substitute—

“Article 19AB(8)	Failure to comply with restriction on newly qualified driver.	Summarily. Level 3 on the standard scale.	Discretionary. 3”,
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- (b) in the entry relating to offences under Article 177 of that Order, in column (7), for “6” substitute “(a) 3 if the driver of the vehicle is alleged to be guilty of an offence under Article 19AB(8) of the Order of 1981 (failure to

comply with any of the specified restrictions during the new driver period),  
(b) 6 in any other case”.

*Approved courses for new drivers as alternative to revocation*

**Approved courses for new drivers as alternative to revocation**

**20.—**(1) The New Drivers Order is amended as follows.

(2) In Article 5 (revocation of licences for 6 or more penalty points during person’s probationary period)—

- (a) in paragraph (1), after “Department”, where it second occurs, insert “, except where paragraph (1ZB) provides otherwise,”,
- (b) in paragraph (1ZA), after “Department”, where it second occurs, insert “(except where paragraph (1ZB) provides otherwise)”,
- (c) after paragraph (1ZA) insert—

“(1ZB) The Department may offer the person the opportunity, by therelevant date, to satisfactorily complete an approved course; and if the person accepts the offer and, by the relevant date, satisfactorily completes an approved course, except as provided in paragraph (1ZC) the Department shall not revoke his licence.

(1ZC) Where—

- (a) the Department makes an offer under paragraph (1ZB) and the person to whom it is made accepts the offer;
- (b) during the period beginning with the day on which the offer is made and ending with the day on which the person satisfactorily completes an approved course, the Department receives, in respect of an offence other than that in respect of which the offer was made—
  - (i) notice of a court order referred to in Article 4(1)(d); or
  - (ii) the person’s licence as mentioned in Article 4(3)(a),

the Department shall by notice served on that person revoke the licence.”,

(d) after paragraph (3) add—

“(4) In this Article and Article 5B—

“approved course” means a course approved by the Department for the purposes of this Article;

“the relevant date” means such date, not later than 6 months after the day on which the offer under paragraph (1ZB) is given, as is specified in the offer.”.

(3) After Article 5, insert—

**“5A Only one offer of an approved course during a person’s probationary period**

**5A.** The Department may make only one offer under this Order (by virtue of any of Article 5(1ZB) or paragraph 5(1ZB) or 8(1ZB) of Schedule 1) to a person during the person’s probationary period. virtue of any of Article 5(1ZB) or paragraph 5(1ZB) or 8(1ZB) of Schedule 1) to a person during the person’s probationary period.

**5B Approved courses: further provision**

- (1) Before making an offer under Article 5(1ZB)—
  - (a) the Department must be satisfied that a place on an approved course will be available for the person;
  - (b) the Department must have informed the person (orally and in writing and in ordinary language) of the effect of the offer and of the amount of the fees which he is required to pay for the course and when he must pay them;
  - (c) the person must have agreed to attend an approved course.
- (2) Regulations made by the Department may make provision as regards—
  - (a) the nature of approved courses;
  - (b) approval by the Department of courses, and of persons providing approved courses (including approval subject to conditions, withdrawal of approval and payment of fees in respect of applications for approval or in connection with approval);
  - (c) monitoring of approved courses and persons providing them;
  - (d) the maximum fees that a person may be required to pay for an approved course and by when fees are to be paid;
  - (e) appeal against refusal of an application for approval, any condition on its grant or withdrawal of approval;
  - (f) entering into arrangements by the Department with persons in Great Britain who provide courses which the Department considers are of a nature similar to an approved course, for the purpose of treating those courses as approved courses within the meaning of Article 5;
  - (g) the issuing of guidance to persons providing approved courses;
  - (h) the payment to the Department by persons providing approved courses of costs reasonably incurred by it in relation to the management and administration of such courses (including monitoring, reviewing and evaluating their content and effectiveness and issuing guidance to such persons as to the conduct of such courses);

- (i) the apportionment of such costs among providers of approved courses;
  - (j) the circumstances in which a person is to be regarded, for the purposes of Article 5, as having satisfactorily completed an approved course;
  - (k) certificates of satisfactory completion of approved courses and appeal to the Department against decision by the persons who provide such courses not to issue certificates;
  - (l) such other matters as the Department considers appropriate.
- (3) Regulations under paragraph (2) shall be subject to negative resolution.”.
- (4) In Schedule 1 (newly qualified drivers holding test certificate)—
- (a) in paragraph 5 (revocation of test certificate: newly qualified driver with provisional licence and test certificate)—
    - (i) in sub-paragraph (1), after “Department”, where it second occurs, insert “, except where sub-paragraph (1ZB) provides otherwise,”;
    - (ii) in sub-paragraph (1ZA), after “Department”, where it second occurs, insert “(except where sub-paragraph (1ZB) provides otherwise)”;
    - (iii) after sub-paragraph (1ZA) insert—
 

“(1ZB) The Department may offer the person the opportunity, by the relevant date, to satisfactorily complete an approved course; and if the person accepts the offer and, by the relevant date, satisfactorily completes an approved course, except as provided in sub-paragraph (1ZC) the Department shall not revoke his test certificate.

(1ZC) Where—

      - (a) the Department makes an offer under sub-paragraph (1ZB) and the person to whom it is made accepts the offer;
      - (b) during the period beginning with the day on which the offer is made and ending with the day on which the person satisfactorily completes an approved course, the Department receives, in respect of an offence other than that in respect of which the offer was made—
        - (i) notice of a court order referred to in Article 4(1)(d); or
        - (ii) the person’s test certificate as mentioned in paragraph 4(4),
 the Department shall by notice served on that person revoke the test certificate.”;
  - (iv) after sub-paragraph (5) add—
 

“(6) In this paragraph—

“approved course” means a course approved by the Department for the purposes of this paragraph;

“the relevant date” means such date, not later than 6 months after the day on which the offer under sub-paragraph (1ZB) is given, as is specified in the offer.”

(b) after paragraph 5, insert—

**“5A Approved courses under paragraph 5: further provision**

**5A.** Article 5B applies for the purposes of making an offer under paragraph 5(1ZB), and approved courses for the purposes of paragraph 5, as it applies for the purposes of making an offer under Article 5(1ZB), and approved courses for the purposes of Article 5, as if—paragraph 5(1ZB), and approved courses for the purposes of paragraph 5, as it applies for the purposes of making an offer under Article 5(1ZB), and approved courses for the purposes of Article 5, as if—

(a) references in Article 5 to an approved course, and approved courses, were references to an approved course, and approved courses, within the meaning of paragraph 5 and references to Article 5, and Article 5(1ZB), were references to paragraph 5, and paragraph 5(1ZB);

(b) the reference in Article 5B(3) to regulations under paragraph (2) (of Article 5) were a reference to regulations under this paragraph.”

(c) in paragraph 8 (revocation of licence and test certificate: newly qualified driver with full and provisional entitlements and test certificate)—

(i) in sub-paragraph (1), after “Department”, where it second occurs, insert “, except where sub-paragraph (1ZB) provides otherwise.”,

(ii) in sub-paragraph (1ZA), after “Department”, where it second occurs, insert “(except where sub-paragraph (1ZB) provides otherwise)”,

(iii) after sub-paragraph (1ZA) insert—

“(1ZB) The Department may offer the person the opportunity, by the relevant date, to satisfactorily complete an approved course; and if the person accepts the offer and, by the relevant date, satisfactorily completes an approved course, except as provided in sub-paragraph (1ZC) the Department shall not revoke his licence and test certificate.

(1ZC) Where—

(a) the Department makes an offer under sub-paragraph (1ZB) and the person to whom it is made accepts the offer;

(b) during the period beginning with the day on which the offer is made and ending with the day on which the person satisfactorily completes an approved course, the Department receives, in respect of an offence other than that in respect of which the offer was made—

(i) notice of a court order referred to in Article 4(1)(d) and the person's licence and test certificate; or

(ii) the person's licence and test certificate as mentioned in paragraph 7(4),

the Department shall by notice served on that person revoke the licence and test certificate.”,

(iv) after sub-paragraph (3) add—

“(4) In this paragraph—

“approved course” means a course approved by the Department for the purposes of this paragraph;

“the relevant date” means such date, not later than 6 months after the day on which the offer under sub-paragraph (1ZB) is given, as is specified in the offer.”,

(d) after paragraph 8, insert—

**“8A Approved courses under paragraph 8: further provision**

**8A.** Article 5B applies for the purposes of making an offer under paragraph 8(1ZB), and approved courses for the purposes of paragraph 8, as it applies for the purposes of making an offer under Article 5(1ZB), and approved courses for the purposes of Article 5, as if—paragraph 8(1ZB), and approved courses for the purposes of paragraph 8, as it applies for the purposes of making an offer under Article 5(1ZB), and approved courses for the purposes of Article 5, as if—

(a) references in Article 5 to an approved course, and approved courses, were references to an approved course, and approved courses, within the meaning of paragraph 8 and references to Article 5, and Article 5(1ZB), were references to paragraph 8, and paragraph 8(1ZB);

(b) the reference in Article 5B(3) to regulations under paragraph (2) (of Article 5) were a reference to regulations under this paragraph.”.



## PART 4

### Protective headgear: extension of requirements

#### Extension of requirements as regards protective headgear

**21.—**(1) In Article 27 of the Order of 1995 (persons driving or riding on motor cycles to wear protective headgear)—

- (a) in paragraph (1), after “motor cycles” insert “or other motor vehicles”,
- (b) in paragraph (3), after “motor cycle” insert “or other motor vehicle”.

(2) In Article 28(1) of that Order (types of protective helmets for motor cyclists), after “motor cycles”, in both places where it occurs, insert “or other motor vehicles”.

## PART 5

### Miscellaneous and General

#### Orders and regulations under the Order of 1995

**22.** Article 110 of the Order of 1995 is amended as follows—

- (a) in paragraph (1) (exception from requirement for orders to be subject to negative resolution), for “this Order”, where it first occurs, substitute “paragraph (3A)”,
- (b) after paragraph (3) insert—
  - “(3A) An order made under—
  - (a) Article 13A(4) or (7), or
  - (b) Article 63(9)

shall not be made unless a draft has been laid before, and approved by a resolution of, the Assembly.”,

- (c) in paragraph (4) (procedure for certain regulations), for “shall be subject to affirmative resolution” substitute “shall not be made unless a draft has been laid before, and approved by a resolution of, the Assembly”.

#### Supplementary, incidental and consequential etc. provision

**23.—**(1) The Department may by order make such supplementary, incidental, consequential, transitional, transitory or saving provision as it considers appropriate—

- (a) for the purposes of, or in consequence of, or for giving full effect to, this Act or any provision of it,
- (b) in connection with the coming into operation of any provision of this Act.

(2) An order under subsection (1) may amend, repeal, revoke or otherwise modify any statutory provision (including this Act).

(3) In subsection (2), “modify” includes the making of additions, omissions and exceptions.

(4) Except as mentioned in subsection (5), an order made under this section is subject to negative resolution.

(5) An order under subsection (1) containing provision which adds to, replaces or omits any part of the text of Northern Ireland legislation or an Act of Parliament is not to be made unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(6) In this section—

“the Department” means the Department of the Environment,

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

### **Transitional and saving provisions**

24. Schedule 1 (which contains transitional and saving provisions) has effect.

### **Repeals**

25. The provisions set out in the first column of Schedule 2 are repealed to the extent specified in the second column of that Schedule.

### **Commencement**

26.—(1) This Act, except this section and sections 1, 23 and 27, comes into operation on such day or days as the Department may by order appoint.

(2) Without prejudice to section 23(1), an order under subsection (1) may contain such transitional, transitory or saving provision as the Department considers necessary or expedient in connection with any provision brought into operation by the order.

(3) In this section, “the Department” has the same meaning as in section 23.

### **Short title**

27. This Act may be cited as the Road Traffic (Amendment) Act (Northern Ireland) 2016.

## SCHEDULES

### SCHEDULE 1

Section 24.

#### TRANSITIONAL AND SAVING PROVISIONS

##### PART 1

##### DRINK-DRIVING

###### *The prescribed limit*

1. The amendments of the Order of 1995 made by section 2 do not apply in relation to an offence committed before the commencement of the amendments.

###### *Choice of specimens*

2. The amendments of the Order of 1995 made by section 6 do not apply in relation to an offence committed before the commencement of the amendments.

###### *Fixed penalty offences*

3. The amendments of the Offenders Order made by section 7 do not apply in relation to an offence committed before the commencement of the amendments.

4. Until the commencement of the repeal (by paragraphs 41 and 47 of Schedule 5 to the Order of 2007) of Articles 64 and 82 respectively of the Offenders Order (effect of endorsement of counterpart without hearing: penalty points attributable on conviction also attributable as fixed penalty) and (endorsement of counterpart where fixed penalty under conditional offer paid)—

(a) paragraph (1) of Article 64 of the Offenders Order has effect as if there were inserted at the beginning “Subject to Article 64B,”,

(b) Article 64B of that Order (inserted by section 8(5)) has effect as if the reference in the title to “Articles 64A(1) and 82A(7)” were a reference to “Articles 64(1), 64A(1), 82(6) and 82A(7)”.

5. Until the commencement of the repeal (by Article 40(4) of and paragraph 47 of Schedule 5 to the Order of 2007) of Articles 63 and 82 respectively of the Offenders Order (endorsement of counterpart without hearing) and (endorsement of counterpart where fixed penalty under conditional offer paid)—

- (a) Article 59C of the Offenders Order (inserted by section 9(1)) has effect as if—
  - (i) the reference in paragraph (2)(b) to “licence”, where it second occurs, were a reference to “licence and its counterpart”,
  - (ii) the reference in paragraph (3) to “licence” were a reference to “licence and its counterpart”,
  - (iii) the reference in paragraph (5) to “licence” were a reference to “licence and a counterpart of a licence”,
- (b) Article 63 of that Order has effect as if—
  - (i) the reference in paragraph (1) to “a fixed penalty notice under Article 60,” were a reference to “a fixed penalty notice under Article 60 or notice under Article 59C(2)”,
  - (ii) the reference in paragraph (3) to “the end of the suspended enforcement period” were a reference to “the end of the suspended enforcement period or (as the case may be) of the period specified in a notice relating to the offence under Article 59C(2)”,
- (c) Article 82 of that Order has effect as if—
  - (i) the reference in paragraph (1) to “a conditional offer” were a reference to “a conditional offer or notice under Article 59C(2)”,
  - (ii) the reference in paragraph (2)(b) to “the expiry of the period specified in the conditional offer” were a reference to “the expiry of the period specified in the conditional offer or (as the case may be) notice under Article 59C(2)”,
- (d) the entry in Part 1 of Schedule 1 to that Order (prosecution and punishment of offences under the Road Traffic Orders) for offences under Article 59C(6) (inserted by section 9(3)) has effect as if the reference in column 2 to “licence” were a reference to “licence and counterpart”.

#### *Disqualification on conviction*

6. The amendments of the Offenders Order made by section 12 do not apply in relation to an offence committed before the commencement of the amendments.

7. Article 35(3) of the Offenders Order (“Article 35(3)”) does not apply in relation to a person, where—

- (a) the offence specified in Article 35(3) of which the person is convicted was committed by the person on or after the relevant commencement date,
- (b) the proportion of alcohol in the person’s body as regards the offence did not exceed—
  - (i) 34 microgrammes per 100 millilitres of breath,
  - (ii) 79 milligrammes per 100 millilitres of blood, or

(iii) 105 milligrammes per 100 millilitres of urine, and

(c) the person's conviction of any other offence specified in Article 35(3) (or if more than one such offence, each such offence) was before the relevant commencement date.

**8.** In paragraph 7, “the relevant commencement date” means the date of commencement of the amendments of the Order of 1995 made by section 2.

**9.** Until the commencement of the repeal (by Article 40(4) of and paragraph 47 of Schedule 5 to the Order of 2007) of Articles 63 and 82 respectively of the Offenders Order (endorsement of counterpart without hearing) and (endorsement of counterpart where fixed penalty under conditional offer paid), paragraph (3A) of Article 35 of the Offenders Order (inserted by section 13(2)) has effect as if the reference to “endorsement of the person's driving record in accordance with Article 63A” were a reference to “endorsement of the counterpart of the person's driving licence in accordance with Article 63 or 82 or his driving record in accordance with Article 63A or 82A”.

**10.** Until the commencement of the substitution (by Article 11(1) of the Order of 2007) of new Articles 36 to 38 for Articles 36 to 39 of the Offenders Order, Article 36 of the Offenders Order has effect as if it were amended as follows (instead of as in section 14)—

- (a) in paragraph (2), for “may” there were substituted “must, unless for special reasons it thinks that to do so is inappropriate and subject to paragraph (4),”,
- (b) in paragraph (4)—
  - (i) after sub-paragraph (b), there were inserted “and”,
  - (ii) the word “and” after sub-paragraph (c) were omitted,
  - (iii) sub-paragraph (d) were omitted.

#### *Miscellaneous*

**11.** Article 54A of the Offenders Order (inserted by section 15) has effect, until the commencement of the substitution (by Article 11(1) of the Order of 2007) of new Articles 36 to 38 for Articles 36 to 39 of the Offenders Order—

- (a) as if in paragraph (1), the references to “course providers” were references to “course providers or organisers”,
- (b) as if in paragraph (2), there were inserted after “Article,” ““course organiser” has the same meaning as in Article 38(2) and”.

## PART 2

### LEARNER AND NEW DRIVERS

#### *Minimum period for which provisional licence to be held in certain cases*

**12.** The amendments of the Order of 1981 made by section 16 do not apply, for a period of 6 months beginning with the day on which the amendments are commenced, in relation to a person whose provisional licence was granted before that day Training of provisional licence holders in certain cases etc.

#### *Training of provisional licence holders in certain cases etc.*

**13.** The amendment of the Order of 1981 made by section 17(2) does not apply, for a period of 6 months beginning with the day on which the amendment is commenced, in relation to a person whose provisional licence, or relevant permit, was granted before the commencement of the amendment.

**14.** In paragraph 13, “relevant permit” means a licence or permit which, by virtue of an Order made under the Motor Vehicles (International Circulation) Act 1952, entitles the person to drive a category B motor vehicle or motor bicycle in Northern Ireland.

**15.** Until the commencement of the amendments (by Article 40(5) of, and Schedule 5 to, the Order of 2007) of the Order of 1981 (removal of references to counterpart to licence)—

- (a) Article 15ZA of that Order (inserted by section 18(1)(c)) has effect as if—
  - (i) the reference in paragraph (2)(b) to “licence” were a reference to “licence and its counterpart”,
  - (ii) the reference in paragraph (3) to “licence”, where it second occurs, were a reference to “licence and its counterpart”,
  - (iii) the reference in paragraph (5)(a) to “licence” were a reference to “licence and its counterpart” and the reference to “it”, in both places where it occurs, were a reference to “them”,
  - (iv) the reference in paragraph (5)(b) to “licence” were a reference to “licence and its counterpart” and the reference to “its” were a reference to “their”,
- (b) the entry in Part 1 of Schedule 1 to the Offenders Order (prosecution and punishment of offences under the Road Traffic Orders) for offences under Article 15ZA(4) of the Order of 1981 (inserted by section 18(2)) has effect as if the reference in column 2 to “licence”, where it third occurs, were a reference to “licence and its counterpart”.

*Restrictions in Articles 19 and 19A of the Order of 1981: learner and new drivers*

**16.** Notwithstanding their repeal by this Act, the following provisions continue to apply (and accordingly also continue in operation), for a period of 6 months beginning with the day on which the repeals are commenced, in relation to a person whose provisional licence was granted before that day—

- (a) Article 19 of the Order of 1981 (speed limit of 45 miles per hour for provisional licence holders),
- (b) the entry, in Part 1 of Schedule 1 to the Offenders Order (prosecution and punishment of offences under the Road Traffic Orders) for offences under that Article.

**17.** Where, immediately before the day on which section 19 is commenced, a person is subject to Article 19A of the Order of 1981 (specified restrictions on newly qualified drivers for a 12 month period of restriction), the following continue to apply (and accordingly also continue in operation) after that day in respect of the person—

- (a) Article 19A (instead of Articles 19AB and 19AC, substituted by section 19 for Articles 19A and 19B),
- (b) the entry in Part 1 of Schedule 1 to the Offenders Order for offences under that Article.

**18.** Where immediately before the day on which section 19 is commenced, a person holds a provisional licence, the person on passing a test of competence to drive on or after that day but before the expiry of the period of 6 months after that day, becomes subject to Article 19A of the Order of 1981 (restrictions on newly qualified drivers for a 12 month period of restriction) (instead of Articles 19AB and 19AC, substituted by section 19 for Articles 19A and 19B); and Article 19A (and the entry in Part 1 of Schedule 1 to the Offenders Order for offences under Article 19A) continue in operation accordingly for that period of 12 months.

**19.** Until the commencement of the amendment (by Article 86 of, and Schedule 8 to, the Order of 2007) of Article 4(3)(a) of the New Drivers Order (removal of reference to counterpart to licence), Article 5(1ZC)(b)(ii) of, and paragraph 8(1ZC)(b) of Schedule 1 to, the New Drivers Order (inserted by section 20(2)(c) and (4)(c)(iii)) have effect as if the reference there to “licence” were a reference to “licence and its counterpart”.

### PART 3

#### GENERAL

**20.** In this Schedule, “category B motor vehicle”, “motor bicycle”, “provisional licence” and “test of competence to drive” have the same meanings as in Article 19D(1) of the Order of 1981.

## SCHEDULE 2

Section 25.

## REPEALS

Short Title	Extent of Repeal
<a href="#">The Road Traffic (Northern Ireland) Order 1981 (NI 1)</a>	In Article 5, paragraphs (2A) and (5A). In Article 13, paragraph (3A). Article 19.
<a href="#">The Road Traffic (Northern Ireland) Order 1995 (NI 18)</a>	In Article 13(2), the definition of “the prescribed limit”. In Article 18, paragraphs (2A) and (2B). In Article 19(1), the words “Subject to paragraph (2),”. Article 19(2), (2A) and (3). In Article 63(9), the words “, made subject to affirmative resolution,”.
<a href="#">The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10)</a>	In Article 36(9), the word “and” after sub-paragraph (c). Article 36(9)(d). In Part 1 of Schedule 1, the entry relating to Article 19 of the Road Traffic (Northern Ireland) Order 1981.
<a href="#">The Road Traffic (New Drivers) (Northern Ireland) Order 1998 (NI 7)</a>	In Schedule 2, paragraphs 2 to 4.