

STATUTORY INSTRUMENTS

2007 No. 916

The Road Traffic (Northern Ireland) Order 2007

PART II

OFFENCES AND ENFORCEMENT

Miscellaneous

PROSPECTIVE

Offence of keeping vehicle which does not meet insurance requirements

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

“Offence of keeping vehicle which does not meet insurance requirements

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

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

- (a) it is covered by a such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part, and
- (b) either of the following conditions is satisfied.

(3) The first condition is that the policy or security, or the certificate of insurance or security which relates to it, identifies the vehicle by its registration mark as a vehicle which is covered by the policy or security.

(4) The second condition is that the vehicle is covered by the policy or security because—

- (a) the policy or security covers any vehicle, or any vehicle of a particular description, the owner of which is a person named in the policy or security or in the certificate of insurance or security which relates to it, and
- (b) the vehicle is owned by that person.

(5) For the purposes of this Article a vehicle is covered by a policy of insurance or security if the policy of insurance or security is in force in relation to the use of the vehicle.

Exceptions to Article 91A offence

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

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

(3) The second condition is that the registered keeper—

- (a) is not at the relevant time the person keeping the vehicle, and
- (b) if previously he was the person keeping the vehicle, he has by the relevant time complied with any requirements under paragraph (6)(a) that he is required to have complied with by the relevant or any earlier time.

(4) The third condition is that—

- (a) the registered keeper is at the relevant time the person keeping the vehicle,
- (b) at the relevant time the vehicle is not used on a road or other public place, and
- (c) the registered keeper has by the relevant time complied with any requirements under paragraph (6)(a) that he is required to have complied with by the relevant or any earlier time.

(5) The fourth condition is that—

- (a) the vehicle has been stolen before the relevant time,
- (b) the vehicle has not been recovered by the relevant time, and
- (c) any requirements under paragraph (6)(b) that, in connection with the theft, are required to have been complied with by the relevant or any earlier time have been complied with by the relevant time.

(6) Regulations may make provision—

- (a) for the purposes of paragraph (3)(b) and (4)(c), requiring a person in whose name a vehicle is registered to furnish such particulars and make such declarations as may be prescribed, and to do so at such times and in such manner as may be prescribed, and
- (b) for the purposes of paragraph (5)(c), as to the persons to whom, the times at which and the manner in which the theft of a vehicle is to be notified.

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

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

Fixed penalty notices

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) In any proceedings a certificate which—

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

is evidence of the facts stated.

Article 91A offence: supplementary

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

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

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

“Disclosure of information

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

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(2) In this Article–

“information” means information held in any form;

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

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

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

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

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

“Article 91A	Keeping vehicle which does not meet insurance requirements.	Summarily.	Level 3 on the standard scale.”.
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(7) After the entry relating to Article 97 of the Order of 1981 insert–

“Regulations under Article 103 made by virtue of paragraph 2(1) of Schedule 2A.	Contravention of provision of regulations (which is declared by regulations to be an offence) prohibiting removal of or interference with immobilisation notice.	Summarily.	Level 2 on the standard scale.
Regulations under Article 103 made by virtue of paragraph 2(2) of Schedule 2A.	Contravention of provision of regulations (which is declared by regulations to be an offence) prohibiting removal or attempted removal of immobilisation device	Summarily.	Level 3 on the standard scale.
Regulations under Article 103 made by virtue of paragraph 2(3) of Schedule 2A.	Contravention of provision of regulations (which is declared by regulations to be an offence) about display of disabled person's badge.	Summarily.	Level 3 on the standard scale.
Regulations under Article 103 made by virtue of paragraph 2(4) of Schedule 2A.	Contravention of provision of regulations (which is declared by regulations to be an offence) prohibiting making of false or misleading declaration to secure release of vehicle	(a) Summarily. (b) On indictment	(a) The statutory maximum. (b) 2 years or a fine or both

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Regulations under Article 103 made by virtue of paragraph 4 of Schedule 2A.	from immobilisation device. Contravention of provision of regulations (which is declared by regulations to be an offence) prohibiting making of false or misleading declaration to secure possession of vehicle in person's custody.	(a) Summarily. (b) On indictment.	(a) The statutory maximum. (b) 2 years or a fine or both."
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Seat belts: delivery drivers

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

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

Disqualification until test passed

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

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

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

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

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

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

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

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

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

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Notice of prosecution for certain offences

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

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

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

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

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

“application for–

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

(3) After paragraph (1)(d) insert–

- “(e) knowingly produces false evidence for the purposes of regulations under Article 72 of the Order of 1995 or knowingly makes a false statement in a declaration required to be made by those regulations;
- (f) intentionally makes a false entry in any record required to be made or kept by regulations under Article 82 of the Order of 1995, or with intent to deceive, makes use of any such entry which he knows to be false.”.

(4) For paragraph (2) substitute–

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

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

is guilty of an offence.

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

- (a) any licence under the Road Traffic Orders or, in the case of a licence to drive, any counterpart of such a licence;
- (b) any counterpart of a Great Britain licence or Community licence;
- (c) any international road haulage permit;
- (d) any document which, in pursuance of Article 5(3) of this Order, is issued as evidence of the result of a test of competence to drive;

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- (e) any certificate provided for by regulations under Article 13(3A) of this Order relating to the completion of a training course for motor cyclists;
- (f) any certificate of conformity or Department's approval certificate within the meaning of Part IV of this Order;
- (g) any certificate of insurance or certificate of security under Article 92 or 93 of this Order;
- (h) any certificate required as a condition of any exception prescribed under Article 23 of the Order of 1995;
- (i) any test certificate, goods vehicle test certificate, plating certificate or certificate of temporary exemption within the meaning of Part III of the Order of 1995;
- (j) any seal required by regulations made under Article 55 of the Order of 1995 with respect to speed limiters;
- (k) any plate containing particulars required to be marked on a vehicle by regulations made under Article 55 of the Order of 1995;
- (l) any certificate evidencing the examination of a motor vehicle modified to be propelled using fuel stored under pressure under regulations made under Article 55 of the Order of 1995
- (m) any document evidencing the appointment of an examiner under Article 74 of the Order of 1995;
- (n) any notice removing a prohibition under Article 77 (power to prohibit driving of unfit vehicles) or Article 79 (power to prohibit driving of overloaded vehicles) of the Order of 1995;
- (o) any records required to be kept by virtue of Article 82 of the Order of 1995;
- (p) a certificate of the kind referred to in Article 32B(1) (reduced penalty points for attendance on course) or Article 37(1) (reduced disqualification period for attendance on course) of the Offenders Order;
- (q) any document produced as evidence of the passing of an appropriate driving test within the meaning of Article 41 of the Offenders Order;
- (r) any document evidencing the passing of an examination (or part of an examination) required by regulations under Article 62 or the successful completion of training provided in accordance with regulations under Article 64 of the Order of 2007;
- (s) any certificate under Article 65 of the Order of 2007;
- (t) any certificate or other item prescribed under Article 70(1)(a) of the Order of 2007;
- (u) any document produced as evidence of insurance in pursuance of Regulation 6 of the European Communities (Motor Vehicles: Compulsory Insurance) (Northern Ireland) Regulations 1973.

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

(5) In paragraph (3)–

- (a) for the words from the beginning to “is a document” substitute– “If–
 - (a) a constable or examiner appointed under Article 74 of the Order of 1995 has reasonable cause to believe that a document or other thing produced to him under this Order by the driver of a motor vehicle;

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

is a document or other thing ”,

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

(6) After that paragraph insert–

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

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