

**EXPLANATORY MEMORANDUM TO**

**THE ROAD TRAFFIC (FIXED PENALTY) (AMENDMENT) ORDER**  
**(NORTHERN IRELAND) 2020**

**2020 No. 336**

**1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 59(1) of the Road Traffic Offenders (Northern Ireland) Order 1996 (“The Offenders Order”) and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1. This Order increases to £200 the fixed penalty amount related to the driving of a motor vehicle while using a hand held mobile phone or other hand held interactive communication device.

**3. Background**

- 3.1. Article 56A(b) of the Road Traffic (Northern Ireland) Order 1995 makes it an offence to drive or supervise the driving of a motor vehicle while using a hand held mobile phone or other hand held interactive communication device. It is also an offence to cause or permit the driving of a motor vehicle by another person who is using such a phone or other device.
- 3.2. An offence under Article 56A(b) is prescribed as a “fixed penalty offence” and may be discharged by payment of the prescribed fixed penalty amount. In addition, the penalty points separately prescribed for this offence will be added to a driver’s licence.
- 3.3. This Order amends the Road Traffic (Fixed Penalty) Order (Northern Ireland) 2007 to increase the amount of the fixed penalty related to this offence from £60 to £200. The current maximum penalty if convicted in court of this offence includes a £1,000 fine (£2,500 for a passenger carrying vehicle or goods vehicle). The driver may also be disqualified from driving.
- 3.4. The penalty points prescribed for this offence have also been increased from 3 points to 6 points by the Road Traffic Offenders (Northern Ireland) (Amendment) Order 2020. The increased points total will apply whether the offence is discharged by payment of a fixed penalty or by court conviction. There is

therefore no differential in the number of penalty points applied whether a driver accepts a Fixed Penalty Notice or is prosecuted through the courts.

#### **4. Consultation**

- 4.1. Consultation on the “Use of a Mobile Phone While Driving – Review of Existing Offences and Associated Penalties” ran from 6 March 2018 to 15 May 2018. A total of 337 responses were received highlighting strong public concern about the prevalent use of mobile phones behind the wheel and support for increasing the penalties in place for the use of mobile telephones when driving.

#### **5. Equality Impact**

- 5.1. The Department considered that the proposed legislation does not impact on the equality of opportunity of any of the groups specified in section 75 of the Northern Ireland Act 1998. An equality impact assessment was not therefore completed.

#### **6. Regulatory Impact**

- 6.1. A Regulatory Impact Assessment was not carried out as the Department considered that the proposed legislation does not unduly impact business, charities or voluntary bodies.

#### **7. Financial Implications**

- 7.1. The NI Courts & Tribunals Service would incur additional costs if the increased fixed penalty amount leads to an increased incentive to challenge the offence in court, or if an increase in prosecutions leads to an increase in the number of unpaid fines. However, given the intended impact from the introduction of these proposals is to bring about a change in road user behaviour that will make the use of a mobile phone while driving socially unacceptable, it is expected that there will ultimately be fewer Fixed Penalty Notices issued and fewer challenges in court.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. The Department has considered the matter of Convention Rights and community law and is satisfied that there are no matters of concern.

#### **9. EU Implications**

- 9.1. Not applicable.

#### **10. Parity or replicatory measure**

- 10.1. This Order corresponds to the Fixed Penalty (Amendment) Order 2017 (S.I. 2017/66) made by the Department for Transport and applicable in Great Britain.

## **11. Additional Information**

- 11.1. Not applicable.