
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Road Traffic (Northern Ireland) Order 2007

PART III

DRIVER LICENSING

Unlicensed and foreign drivers

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

(2) In Article 49 (endorsement of licences)—

- (a) for the heading substitute “Orders for endorsement”;
- (b) after paragraph (2) insert—

“(2A) Where a person who is not the holder of a licence is convicted of an offence involving obligatory endorsement, paragraph (1) applies as if the reference to the counterpart of any licence held by him were a reference to his driving record.”.

(3) After that Article insert—

“Endorsement of driving record in accordance with order

49A.—(1) Where the court orders the endorsement of a person’s driving record with any particulars or penalty points it must send notice of the order to the Department.

(2) On receiving the notice, the Department must endorse those particulars or penalty points on the person’s driving record.

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

(4) In Article 60 (notices on-the-spot or at a police station), after paragraph (5) insert—

“(5A) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, and the person is not the holder of a licence, the constable or vehicle examiner may only give him a fixed penalty notice under paragraph (2) in respect of the offence if the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence.

(5B) Paragraph (5C) applies where—

- (a) the offence appears to the constable or vehicle examiner to involve obligatory endorsement,
- (b) the person concerned is not the holder of a licence, and
- (c) the constable or vehicle examiner is unable to satisfy himself, by accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence.

(5C) Where this paragraph applies, the constable or vehicle examiner may give the person a notice stating that if—

- (a) he delivers the notice in accordance with paragraph (5D), and
- (b) the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence,

he will then be given a fixed penalty in respect of the offence.

(5D) Delivery must—

- (a) if the notice is given by a constable, be made in person, within 7 days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or
- (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within 14 days after the notice is given, to the Department, at the place specified in the notice.

(5E) If a person to whom a notice has been given under paragraph (5C) delivers the notice in accordance with paragraph (5D), and the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence, that person must give him a fixed penalty notice in respect of the offence to which the notice under paragraph (5C) relates.”.

(5) After Article 63 (endorsement of licences without hearings) insert—

“Endorsement of driving records without hearings

63A.—(1) Subject to paragraph (2), where a person who is not the holder of a licence has been given a fixed penalty notice under Article 60 in respect of an offence involving obligatory endorsement, his driving record may be endorsed in accordance with this Article without any order of a court.

(2) A person’s driving record may not be endorsed under this Article if at the end of the suspended enforcement period—

- (a) he has given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of the offence to which the fixed penalty notice relates, and
- (b) the fixed penalty has not been paid in accordance with this Part.

(3) If payment of the fixed penalty is made before the end of the suspended enforcement period and the person to whom the payment is made is the fixed penalty clerk, the fixed penalty clerk must send to the Department notice of the relevant particulars which are to be endorsed on the person’s driving record.

(4) Where any sum determined by reference to the fixed penalty is registered under Article 76 for enforcement against the person as a fine in a case where the fixed penalty is required to be paid to the fixed penalty clerk, the fixed penalty clerk must, on the registration of that sum, send to the Department notice of the relevant particulars which are to be endorsed on the person’s driving record.

(5) The Department must endorse the relevant particulars on the person’s driving record if—

- (a) it receives notice of them under paragraph (3) or (4),
- (b) the fixed penalty is paid to it before the end of the suspended enforcement period, or

- (c) in a case where the fixed penalty is required to be paid to the Department, any sum determined by reference to the fixed penalty is registered under Article 76 for enforcement against the person as a fine.
- (6) References in this Article to the relevant particulars are to—
 - (a) particulars of the offence, including the date when it was committed, and
 - (b) the number of penalty points to be attributed to the offence.”.
- (6) Schedule 4 (which contains further amendments in respect of the endorsement of driving records in the case of unlicensed and certain foreign drivers) shall have effect.