

STATUTORY INSTRUMENTS

1996 No. 1320 (N.I. 10)

The Road Traffic Offenders (Northern Ireland) Order 1996

15th May 1996

Modifications etc. (not altering text)

- C1** Order: functions of Lord Chancellor are transferred to the Department of Justice (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(1)(6), [Sch. 17 para. 46](#) (with arts. 28-31); S.I. 2010/977, [art. 1\(2\)](#)

PART I INTRODUCTORY

Title and commencement

1. This Order may be cited as the Road Traffic Offenders (Northern Ireland) Order 1996 and shall come into operation on such day or days as the head of the Department may by order appoint^{F1}.

F1 partly exercised by SRs. 1997/279;336;372

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“clerk of petty sessions” shall be construed in accordance with Article 2(4) of the Magistrates' Courts (Northern Ireland) Order 1981;

[^{F2}“the Department” means the Department of the Environment;]

“disqualified” means disqualified for holding or obtaining a licence;

“licence” means a licence to drive a motor vehicle granted under Part II of the Order of 1981,^{F3} . . .

“offence involving obligatory endorsement” has the meaning given in Article 3;

“offence involving obligatory disqualification” and “offence involving discretionary disqualification” have the meaning given in Article 4;

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

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

[^{F4}“the Order of 2007” means the Road Traffic (Northern Ireland) Order 2007;]

“petty sessions district” has the same meaning as in the Magistrates' Courts (Northern Ireland) Order 1981;

“provisional licence” means a licence granted by virtue of Article 13(2) of the Order of 1981;

“the provisions connected with the licensing of drivers” means Articles 3, 4, 11, 12, 24, 27 to 31, 33, 35 to 38[^{F3} 40 to 53,[^{F5} 92ZA to] and 92B,];

“the Road Traffic Orders” means the Order of 1981, the Order of 1995[^{F6} this Order ^{F7} . . . the Road Traffic Regulation (Northern Ireland) Order 1997][^{F8F9} . . . the Order of 2007 [^{F10}and the Taxis Act (Northern Ireland) 2008]];

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954[^{F3} and “Community licence”, “counterpart”[^{F5}EEA State and Great Britain licence] have the same meanings as in Part II of the Order of 1981.].

(3) Except where it is otherwise provided or the context so requires, any expression for whose interpretation provision is made by Part I of the Order of 1995 is to be construed in accordance with that provision.

(4) In this Order—

- (a) any reference to a licence and its counterpart shall, in relation to licences granted before 1st January 1991, be construed as a reference to a licence only, and
- (b) any reference to the counterpart of a licence shall, in relation to such licences, be construed as a reference to the licence itself.

(5) Subject to any express exception, references in this Order to any Part of this Order include a reference to any Schedule to this Order so far as relating to that Part.

- F2** [Art. 2\(2\): definition of "the Department" inserted \(15.11.2007\) by Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\), arts. 1\(3\), 86\(1\), **Sch. 7 para. 15\(a\)**; S.R. 2007/454, **art. 2**, Sch. SR 1997/241](#)
- F3** [Art. 2\(2\): definition of "the Order of 2007" inserted \(27.6.2007\) by Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\), arts. 1\(3\), 86\(1\), **Sch. 7 para. 15\(b\)**; S.R. 2007/302, **art. 2**, Sch. 2003 NI 16](#)
- F4** [Art. 2\(2\): definition of "the Order of 2007" inserted \(27.6.2007\) by Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\), arts. 1\(3\), 86\(1\), **Sch. 7 para. 15\(b\)**; S.R. 2007/302, **art. 2**, Sch. 1997 NI 2](#)
- F5** [2003 NI 16](#)
- F6** [1997 NI 2](#)
- F7** [Word in art. 2\(2\) in definition of "the Road Traffic Orders" omitted \(27.6.2007\) by virtue of Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\), arts. 1\(3\), 86\(1\), **Sch. 7 para. 15\(c\)\(i\)**; S.R. 2007/302, **art. 2**, Sch.](#)
- F8** [Words in art. 2\(2\) in definition of "the Road Traffic Orders" inserted \(27.6.2007\) by Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\), arts. 1\(3\), 86\(1\), **Sch. 7 para. 15\(c\)\(ii\)**; S.R. 2007/302, **art. 2**, Sch.](#)
- F9** [Art. 2\(2\): word in the definition of "the Road Traffic Orders" omitted \(23.11.2009\) by virtue of Taxis Act \(Northern Ireland\) 2008 \(c.4\), ss. 58\(1\), 59, **Sch. 2 para. 11\(a\)**; S.R. 2009/352, **art. 2**, Sch.](#)
- F10** [Art. 2\(2\): words in the definition of "the Road Traffic Orders" added \(23.11.2009\) by Taxis Act \(Northern Ireland\) 2008 \(c.4\), ss. 58\(1\), 59, **Sch. 2 para. 11\(b\)**; S.R. 2009/352, **art. 2**, Sch.](#)

Meaning of “offence involving obligatory endorsement”

3. For the purposes of this Order, an offence involves obligatory endorsement if it is an offence under a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “obligatory” (without qualification) appears in column 6 (in the case of Part I) or column 3 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions relating to the offence which are satisfied.

Meaning of “offence involving obligatory disqualification” and “offence involving discretionary disqualification”

4.—(1) For the purposes of this Order, an offence involves obligatory disqualification if it is an offence under a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “obligatory” (without qualification) appears in column 5 (in the case of Part I) or column 2 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions or circumstances relating to the offence which are satisfied or obtain.

(2) For the purposes of this Order, an offence involves discretionary disqualification if it is an offence under a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “discretionary” (without qualification) appears in column 5 (in the case of Part I) or column 2 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions or circumstances relating to the offence which are satisfied or obtain.

[^{F11}Meaning of “driving record”

4A.—(1) In this Order “driving record”, in relation to a person, means a record in relation to the person maintained by the Department and designed to be endorsed with particulars relating to—

- (a) offences under the Road Traffic Orders;
- (b) an offence under Article 20 of the Roads (Northern Ireland) Order 1993; and
- (c) the offence of manslaughter by the driver of a motor vehicle

committed by the person.

(2) The Department may make arrangements for the following persons to have access, by such means as the Department may determine, to information held on a person's driving record—

- (a) courts;
- (b) constables;
- (c) fixed penalty clerks;
- (d) examiners appointed under Article 74 of the Order of 1995;
- (e) the person in respect of whom the record is maintained and persons authorised by him; and
- (f) such other persons as may be prescribed by regulations made by the Department subject to negative resolution.]

F11 Art. 4A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 38; S.R. 2010/370, art. 2(2), Sch. Pt. II

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PART II

TRIAL

Introductory

Requirement of warning etc. of prosecutions for certain offences

5.—(1) Subject to Article 6, a person shall not be convicted of an offence to which this Article applies unless—

- (a) he was warned at the time the offence was committed or within 24 hours thereafter that the question of prosecuting him for some one or other of the offences to which this Article applies would be taken into consideration, or
- (b) within 14 days of the commission of the offence a summons for the offence was served on him, or
- (c) within 14 days of the commission of the offence a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was—
 - (i) in the case of an offence under Article 42 or 43 of the Order of 1995 (cycling offences), served on him,
 - (ii) in the case of any other offence, served on him or on the person, if any, registered as the keeper of the vehicle at the time of the commission of the offence.

[^{F12}(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.]

(2) A notice shall be deemed for the purposes of paragraph (1)(c) to have been served on a person if it was sent by registered post or recorded delivery service addressed to him at his last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by him.

(3) The requirement of paragraph (1) shall in every case be deemed to have been complied with unless and until the contrary is proved.

(4) This Article applies to—

- [^{F13}(a) an offence under any of the following provisions of the Road Traffic Regulation (Northern Ireland) Order 1997—
 - (i) Article 7 (temporary traffic regulation) consisting in the contravention of a temporary speed limit under paragraph (3)(b) of that Article,
 - (ii) Article 43 (contravening speed limit);]
- (b) an offence under any of the following provisions of the Order of 1995—
 - (i) Article 10 (dangerous driving),
 - (ii) Article 12 (careless, and inconsiderate, driving),
 - (iii) Article 32 (leaving vehicles in dangerous positions),
 - (iv) Article 42 (dangerous cycling),
 - (v) Article 43 (careless, and inconsiderate, cycling),
 - (vi) Article 49[^{F14} or 50] (contravention of traffic directions or traffic signs);

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- (c) an offence consisting of the driving of a vehicle in contravention of any regulation made under the^{F14} Road Traffic Regulation (Northern Ireland) Order 1997] with respect to traffic signs
- (5) The Department may by order, made subject to negative resolution, specify any other offence to which this Article is to apply.

- F12** Art. 5(1A) inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **28**; S.R. 2007/302, **art. 2**, Sch.
- F13** Art. 5(4)(a) substituted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), **Sch. 7 para. 16**; S.R. 2007/302, **art. 2**, Sch.
- F14** 1997 NI 2

Modifications etc. (not altering text)

- C2** Art. 5 power to apply conferred (23.4.2012) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, **Sch. 1 para. 8**; S.R. 2012/16, **art. 2**, Sch.
- C3** Art. 5 power to apply conferred by S.I. 1981/154 (N.I. 1), Sch. 2A para. 7 (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), **Sch. 3**)
- C4** Art. 5 applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(a)}

Requirement of warning etc: supplementary

6.—(1) The requirement of Article 5(1) does not apply in relation to an offence if, at the time of the offence or immediately after it, an accident occurs owing to the presence on a road of the vehicle in respect of which the offence was committed.

(2) The requirement of Article 5(1) does not apply in relation to an offence in respect of which—

- (a) a fixed penalty notice (within the meaning of Part IV) has been given or fixed under any provision of that Part; or
- (b) a notice has been given under Article 60(4).

(3) Failure to comply with the requirement of Article 5(1) is not a bar to the conviction of the accused in a case where the court is satisfied—

- (a) that the accused was not prejudiced in his defence by the failure; or
- (b) that neither the name and address of the accused nor the name and address of the registered keeper, if any, could with reasonable diligence have been ascertained in time for a summons to be served or for a notice to be served or sent in compliance with the requirement; or
- (c) that the accused by his own conduct contributed to the failure.

(4) Failure to comply with the requirement of Article 5(1) in relation to an offence is not a bar to the conviction of a person of that offence by virtue of the provisions of—

- (a) Article 26; or
- (b) section 6(2) of the Criminal Law Act (Northern Ireland) 1967;

but a person is not to be convicted of an offence by virtue of any of those provisions if Article 5 applies to the offence with which he was charged and the requirement of Article 5(1) was not satisfied in relation to the offence charged.