
STATUTORY INSTRUMENTS

1996 No. 1320

The Road Traffic Offenders (Northern Ireland) Order 1996

PART IV

FIXED PENALTIES

Introductory

Interpretation of this Part

55.—(1) In this Part—

“authorised person” has the meaning given by Article 60(8);

“driver” except in Article 67 means, in relation to an alleged fixed penalty offence, the person by whom, assuming the offence to have been committed, it was committed;

“proceedings”, except in relation to proceedings for enforcing payment of a sum registered under Article 76, means criminal proceedings.

(2) In this Part—

(a) references to a notice requesting a hearing in respect of an offence are references to a notice indicating that the person giving the notice wishes to contest liability for the offence or seeks a determination by a court with respect to the appropriate punishment for the offence;

(b) references to an offence include an alleged offence; and

(c) references to the person who is or was at any time the registered keeper of a vehicle are references to the person in whose name the vehicle is or was at that time registered under the Vehicle Excise and Registration Act 1994.

Expressions defined in this Part

56. The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part listed in the right-hand column in relation to those expressions.

(1) Expression	(2) Relevant provision
Authorised person	Article 60(8)
Conditional offer	Article 80(2)
Fixed penalty	Article 59
Fixed penalty clerk	Articles 74(5) and 80(3)
Fixed penalty notice	Article 58
Fixed penalty offence	Article 57

Status: Point in time view as at 01/01/2006. This version of this part contains provisions that are not valid for this point in time.

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Notice to owner	Articles 68(2) and 71(4)
Notice requesting a hearing in respect of an offence	Article 55(2)
Offence	Article 55(2)
Official form	Article 73(4)
Owner	Article 73(1)
Period allowed for response to a notice to owner	Article 68(5)
Registered keeper	Article 55(2)
Statutory statement of facts	Part II of Schedule 2
Statutory statement of hiring	Part I of Schedule 2
Statutory statement of ownership	Part I of Schedule 2
Suspended enforcement period	Article 58(3)(a)
Time of the alleged offence	Article 68(3)

Fixed penalty offences

57.—(1) Subject to paragraph (3), for the purposes of this Part a “fixed penalty offence” is an offence specified in an order made under paragraph (2).

(2) The Department may by order specify as a fixed penalty offence for the purposes of this Part, any offence committed in respect of a vehicle, being an offence created under a statutory provision and punishable on summary conviction.

(3) Notwithstanding that an offence is specified by order under paragraph (2), it shall not be a fixed penalty offence for the purposes of this Part if it is committed—

- (a) by causing or permitting a vehicle to be used by another person in contravention of any provision made or restriction or prohibition imposed by or under any statutory provision,^{F1} . . .

Sub#para. (b) rep. by 1998 NI 7

F1 1998 NI 7

Fixed penalty notices

58.—(1) In this Part “fixed penalty notice” means a notice offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty in accordance with this Part.

(2) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.

(3) A fixed penalty notice must state—

- (a) the period during which, by virtue of Article 83(1), proceedings cannot be brought against any person for the offence to which the notice relates, being the period of 21 days following the date of the notice or such longer period (if any) as may be specified in the notice (referred to in this Part as the “suspended enforcement period”),

- (b) the amount of the fixed penalty, and
- (c) the clerk of petty sessions to whom and the address at which the fixed penalty may be paid.

Amount of fixed penalty

59. The fixed penalty for an offence is—

- (a) such amount as the Department may by order prescribe, or
- (b) one-half of the maximum amount of the fine to which a person committing that offence would be liable on summary conviction,

whichever is the less.

Giving notices to suspected offenders

Notices on-the-spot or at a police station

60.—(1) This Article applies where on any occasion a constable in uniform has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence.

(2) Subject to paragraph (3), the constable may give him a fixed penalty notice in respect of the offence.

(3) Where the offence appears to the constable to involve obligatory endorsement, the constable may only give him a fixed penalty notice under paragraph (2) in respect of the offence if—

- (a) he produces his licence and its counterpart for inspection by the constable,
- (b) the constable is satisfied, on inspecting the licence and its counterpart, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence, and
- (c) he surrenders his licence and its counterpart to the constable to be retained and dealt with in accordance with this Part.

(4) Where—

- (a) the offence appears to the constable to involve obligatory endorsement, and
- (b) the person concerned does not produce his licence and its counterpart for inspection by the constable,

the constable may give him a notice stating that if, within 7 days after the notice is given, he produces the notice together with his licence and its counterpart in person to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned) and the requirements of paragraph (5)(a) and (b) are met he will then be given a fixed penalty notice in respect of the offence.

(5) If a person to whom a notice has been given under paragraph (4) produces the notice together with his licence and its counterpart in person to a constable or authorised person at the police station specified in the notice within 7 days after the notice was so given to him and the following requirements are met, that is—

- (a) the constable or authorised person is satisfied, on inspecting the licence and its counterpart, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence, and
- (b) he surrenders his licence and its counterpart to the constable or authorised person to be retained and dealt with in accordance with this Part,

the constable or authorised person must give him a fixed penalty notice in respect of the offence to which the notice under paragraph (4) relates.

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(6) A notice under paragraph (4) shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.

(7) A licence and a counterpart of a licence surrendered in accordance with this Article must be sent to the fixed penalty clerk.

(8) In this Part “authorised person”, in relation to a fixed penalty notice given at a police station, means a person authorised for the purposes of this Article by or on behalf of the Chief Constable.

(9) In determining for the purposes of paragraphs (3)(b) and (5)(a) whether a person convicted of an offence would be liable to disqualification under Article 40, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

Modifications etc. (not altering text)

C1 [Art. 60](#) extended by 2003 (c. 6), Sch. 2A para. 1 (as inserted (22.4.2007 for specified purposes otherwise prosp.) by [Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(2)(d)(3), 7(8), [Sch. 5](#))

Effect of fixed penalty notice given under Article 60

61.—(1) This Article applies where a fixed penalty notice relating to an offence has been given to any person under Article 60, and references in this Article to the recipient are to the person to whom the notice was given.

(2) No proceedings shall be brought against the recipient for the offence to which the fixed penalty notice relates unless before the end of the suspended enforcement period he has given notice requesting a hearing in respect of that offence in the manner specified in the fixed penalty notice.

(3) Where—

- (a) the recipient has not given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates in the manner so specified, and
- (b) the fixed penalty has not been paid in accordance with this Part before the end of the suspended enforcement period,

a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under Article 76 for enforcement against the recipient as a fine.

Licence receipts

62.—(1) A constable or authorised person to whom a person surrenders his licence and its counterpart on receiving a fixed penalty notice given to him under Article 60 must issue a receipt for the licence and its counterpart under this Article.

(2) The fixed penalty clerk may, on the application of a person who has surrendered his licence and its counterpart in those circumstances, issue a new receipt for them.

(3) A receipt issued under this Article ceases to have effect—

- (a) if issued by a constable or authorised person, on the expiration of the period of one month beginning with the date of issue or such longer period as may be prescribed, and
- (b) if issued by the fixed penalty clerk, on such date as he may specify in the receipt,

or, if earlier, on the return of the licence and its counterpart to the licence holder.

Endorsement of licences without hearings

63.—(1) Subject to paragraph (2), where a person (referred to in this Article as “the licence holder”) has surrendered his licence and its counterpart to a constable or authorised person on the occasion when he was given a fixed penalty notice under Article 60, the counterpart of his licence may be endorsed in accordance with this Article without any order of a court.

(2) The counterpart of a person's licence 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) On the payment of the fixed penalty before the end of the suspended enforcement period, the fixed penalty clerk must endorse the relevant particulars on the counterpart of the licence and return it together with the licence to the licence holder.

(4) Where any sum determined by reference to the fixed penalty is registered under Article 76 for enforcement against the licence holder as a fine, the fixed penalty clerk must, on the registration of that sum, endorse the relevant particulars on the counterpart of the licence and return it together with the licence to the licence holder.

(5) 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) On endorsing the counterpart of a person's licence under this Article the fixed penalty clerk must send notice of the endorsement and of the particulars endorsed to the Department.

[^{F2}(7) Paragraphs (3) and (4) are subject to Article 4(4)(a) of, and paragraph 7(4)(a) of Schedule 1 to, the Road Traffic (New Drivers) (Northern Ireland) Order 1998; and the fixed penalty clerk need not comply with paragraph (6) in a case where he sends a person's licence and its counterpart to the Department under Article 4(4)(b) of, or paragraph 7(4)(b) of Schedule 1 to, that Order.]

F2 1998 NI 7

VALID FROM 14/12/2010

[^{F3}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.

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(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.]

F3 Art. 63A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 39(5); S.R. 2010/370, art. 2(2), Sch. Pt. II

Effect of endorsement without hearing

64.—(1) Where the counterpart of a person's licence is endorsed under Article 63 he shall be treated for the purposes of Articles 16(4), 30, 31 and 50 of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if—

- (a) he had been convicted of the offence,
 - (b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49, and
 - (c) the particulars of the offence endorsed by virtue of Article 63(5)(a) were particulars of his conviction of that offence.
- (2) In relation to any endorsement of the counterpart of a person's licence under Article 63—
- (a) the reference in Article 50(3) to the order for endorsement, and
 - (b) the references in Article 16(4) to any order made on a person's conviction,

are to be read as a reference to the endorsement itself.

VALID FROM 14/12/2010

[^{F4}Effect of endorsement of driving record without hearing

64A.—(1) Where a person's driving record is endorsed under Article 63A he shall be treated for the purposes of Articles 16(4), 30, 31 and 50A of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if—

- (a) he had been convicted of the offence,
- (b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49, and
- (c) the particulars of the offence endorsed by virtue of Article 63A(6)(a) were particulars of his conviction of that offence.

(2) In relation to any endorsement of a person's driving record under Article 63A, the references in Article 16(4) to any order made on a person's conviction are to be read as references to the endorsement itself.]

F4 Art. 64A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 39(6), **Sch. 4 para. 16**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Notification of court and date of trial

65.—(1) On an occasion when a person is given a fixed penalty notice under Article 60 in respect of an offence, he may be given written notification specifying the court of summary jurisdiction by which and the date on which the offence will be tried if he gives notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice.

(2) Subject to paragraphs (4) and (5), where—

- (a) a person has been notified in accordance with this Article of the court and date of trial of an offence in respect of which he has been given a fixed penalty notice, and
- (b) he has given notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice,

the provisions of the Magistrates' Courts (Northern Ireland) Order 1981 shall apply as mentioned in paragraph (3).

(3) Those provisions are to have effect for the purpose of any proceedings in respect of that offence as if—

- (a) the allegation in the fixed penalty notice with respect to that offence were a complaint duly made in accordance with Article 20 of that Order, and
- (b) the notification of the court and date of trial were a summons duly issued on that complaint by a justice of the peace of the county court division in which the court of summary jurisdiction notified as the court of trial is situated, requiring the person notified to appear before that court to answer to that complaint and duly served on him on the date on which the notification was given.

(4) If, in a case within paragraph (2), notice is served by or on behalf of the Chief Constable on the person who gave notice requesting a hearing stating that no proceedings are to be brought in respect of the offence concerned, that paragraph does not apply and no such proceedings are to be brought against the person who gave notice requesting a hearing.

(5) Article 25A of that Order (proceedings invalid where accused did not know of them) is not applied by paragraph (2) in a case where a person has been notified in accordance with this Article of the court and date of trial of an offence.

Fixed penalty notice mistakenly given: exclusion of fixed penalty procedures

66.—(1) This Article applies where, on inspection of a licence and its counterpart sent to him under Article 60(7), it appears to the fixed penalty clerk that the person whose licence it is would be liable to be disqualified under Article 40 if he were convicted of the offence in respect of which the fixed penalty notice was given.

(2) The fixed penalty clerk must not endorse the counterpart of the licence under Article 63 but must instead send it together with the licence to the Chief Constable.

(3) Nothing in this Part prevents proceedings being brought in respect of the offence in respect of which the fixed penalty notice was given where those proceedings are commenced before the end of the period of 6 months beginning with the date on which that notice was given.

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(4) Where proceedings in respect of that offence are commenced before the end of that period, the case is from then on to be treated in all respects as if no fixed penalty notice had been given in respect of the offence.

(5) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of any provision of this Part by reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision—

- (a) the registration under Article 76 of any sum, determined by reference to the fixed penalty for that offence, for enforcement against the person whose licence it is as a fine, and
- (b) any proceedings for enforcing payment of any such sum within the meaning of Articles 78 and 79 (defined in Article 79(5)).

(6) In determining for the purposes of paragraph (1) whether a person convicted of an offence would be liable to disqualification under Article 40, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

VALID FROM 14/12/2010

[^{F5}Fixed penalty notice mistakenly given to unlicensed person: exclusion of fixed penalty procedures

66A.—(1) This Article applies where, on accessing information held on the driving record of a person to whom a fixed penalty notice was given under Article 60, but who is not the holder of a licence, it appears to the fixed penalty clerk or the Department that the person would be liable to be disqualified under Article 40 if he were convicted of the offence in respect of which the fixed penalty notice was given.

(2) The person's driving record must not be endorsed under Article 63A.

(3) In a case where the fixed penalty is required to be paid to the fixed penalty clerk he must not send notice to the Department under Article 63A but instead must notify the Chief Constable that the person to whom the fixed penalty notice was given would be liable to be disqualified under Article 40 if he were convicted of the offence in respect of which the fixed penalty notice was given .

(4) Nothing in this Part prevents proceedings being brought in respect of the offence in respect of which the fixed penalty notice was given where those proceedings are commenced before the end of the period of 6 months beginning with the date on which that notice was given.

(5) Where proceedings in respect of that offence are commenced before the end of that period, the case is from then on to be treated in all respects as if no fixed penalty notice had been given in respect of the offence.

(6) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of this Part by reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision—

- (a) the registration under Article 76 of any sum, determined by reference to the fixed penalty for that offence, for enforcement against the person to whom the fixed penalty notice was given, and
- (b) any proceedings for enforcing payment of any such sum within the meaning of Articles 78 and 79 (defined in Article 79(5)).

(7) In determining for the purposes of paragraph (1) whether a person convicted of an offence would be liable to disqualification under Article 40, it shall be assumed, in the case of an offence in

relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.]

F5 Art. 66A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(5), 39(6), **Sch. 4 para. 18**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Notices fixed to vehicles

Fixing notices to vehicles

67.—(1) Where on any occasion a constable has reason to believe in the case of any stationary vehicle that a fixed penalty offence is being or has on that occasion been committed in respect of it, he may fix a fixed penalty notice in respect of the offence to the vehicle unless the offence appears to him to involve obligatory endorsement.

(2) A person is guilty of an offence if he removes or interferes with any notice fixed to a vehicle under this Article, unless he does so by or under the authority of the driver or person in charge of the vehicle or the person liable for the fixed penalty offence in question.

Service of notice to owner if penalty not paid

68.—(1) This Article applies where a fixed penalty notice relating to an offence has been fixed to a vehicle under Article 67.

(2) Subject to paragraph (3), if at the end of the suspended enforcement period the fixed penalty has not been paid in accordance with this Part, a notice under this Article may be served by or on behalf of the Chief Constable on any person who appears to him (or to any person authorised to act on his behalf for the purposes of this Article) to be the owner of the vehicle. Such a notice is referred to in this Part as a “notice to owner”.

(3) Paragraph (2) does not apply where before the end of the suspended enforcement period—

- (a) any person has given notice requesting a hearing in respect of the offence in the manner specified in the fixed penalty notice, and
- (b) the notice so given contains a statement by that person to the effect that he was the driver of the vehicle at the time when the offence is alleged to have been committed.

That time is referred to in this Part as the “time of the alleged offence”.

(4) A notice to owner—

- (a) must give particulars of the alleged offence and of the fixed penalty concerned,
- (b) must state the period allowed for response to the notice, and
- (c) must indicate that, if the fixed penalty is not paid before the end of that period, the person on whom the notice is served is asked to provide before the end of that period to the Chief Constable a statutory statement of ownership (as defined in Part I of Schedule 2).

(5) For the purposes of this Part, the period allowed for response to a notice to owner is the period of 21 days from the date on which the notice is served, or such longer period (if any) as may be specified in the notice.

(6) A notice to owner relating to any offence must indicate that the person on whom it is served may, before the end of the period allowed for response to the notice, either—

- (a) give notice requesting a hearing in respect of the offence in the manner indicated by the notice, or
- (b) if—

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- (i) he was not the driver of the vehicle at the time of the alleged offence, and
- (ii) a person purporting to be the driver wishes to give notice requesting a hearing in respect of the offence,

provide, together with a statutory statement of ownership provided as requested in that notice, a statutory statement of facts (as defined by Part II of Schedule 2) having the effect referred to in paragraph 3(2) of that Schedule (that is, as a notice requesting a hearing in respect of the offence given by the driver).

(7) In any case where a person on whom a notice to owner relating to any offence has been served provides a statutory statement of facts in pursuance of paragraph (6)(b)—

- (a) any notice requesting a hearing in respect of the offence that he purports to give on his own account shall be of no effect, and
- (b) no sum may be registered for enforcement against him as a fine in respect of the offence unless, within the period of 2 months immediately following the period allowed for response to the notice to owner, no summons in respect of the offence in question is served on the person identified in the statement as the driver.

Enforcement or proceedings against owner

69.—(1) This Article applies where—

- (a) a fixed penalty notice relating to an offence has been fixed to a vehicle under Article 67,
- (b) a notice to owner relating to the offence has been served on any person under Article 68(2) before the end of the period of 6 months beginning with the day on which the fixed penalty notice was fixed to the vehicle, and
- (c) the fixed penalty has not been paid in accordance with this Part before the end of the period allowed for response to the notice to owner.

(2) Subject to paragraph (4) and to Article 68(7)(b), a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under Article 76 for enforcement against the person on whom the notice to owner was served as a fine.

(3) Subject to paragraph (4) and to Article 70, proceedings may be brought in respect of the offence against the person on whom the notice to owner was served.

(4) If the person on whom the notice to owner was served—

- (a) was not the owner of the vehicle at the time of the alleged offence, and
- (b) provides a statutory statement of ownership to that effect in response to the notice before the end of the period allowed for response to the notice,

he shall not be liable in respect of the offence by virtue of this Article nor shall any sum determined by reference to the fixed penalty for the offence be so registered by virtue of this Article for enforcement against him as a fine.

(5) Subject to paragraph (6)—

- (a) for the purposes of the institution of proceedings by virtue of paragraph (3) against any person on whom a notice to owner has been served, and
- (b) in any proceedings brought by virtue of that paragraph against any such person,

it shall be conclusively presumed (notwithstanding that that person may not be an individual) that he was the driver of the vehicle at the time of the alleged offence and, accordingly, that acts or omissions of the driver of the vehicle at that time were his acts or omissions.

(6) That presumption does not apply in any proceedings brought against any person by virtue of paragraph (3) if, in those proceedings, it is proved that at the time of the alleged offence the vehicle was in the possession of some other person without the consent of the accused.

(7) Where—

(a) by virtue of paragraph (3) proceedings may be brought in respect of an offence against a person on whom a notice to owner was served, and

(b) Article 79(1) does not apply,

Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (complaint must be made within 6 months of time offence committed) shall have effect as if for the reference to 6 months there were substituted a reference to 12 months.

Restrictions on proceedings against owner and others

70.—(1) In any case where a notice to owner relating to an offence may be served under Article 68, no proceedings shall be brought in respect of the offence against any person other than a person on whom such a notice has been served unless he is identified as the driver of the vehicle at the time of the alleged offence in a statutory statement of facts provided in pursuance of Article 68(6)(b) by a person on whom such a notice has been served.

(2) Proceedings in respect of an offence to which a notice to owner relates shall not be brought against the person on whom the notice was served unless, before the end of the period allowed for response to the notice, he has given notice, in the manner indicated by the notice to owner, requesting a hearing in respect of the offence.

(3) Proceedings in respect of an offence to which a notice to owner relates may not be brought against any person identified as the driver of the vehicle in a statutory statement of facts provided in response to the notice if the fixed penalty is paid in accordance with this Part before the end of the period allowed for response to the notice.

(4) Once any sum determined by reference to the fixed penalty for an offence has been registered, by virtue of Article 69, under Article 76 for enforcement as a fine against a person on whom a notice to owner relating to that offence has been served, no proceedings shall be brought against any other person in respect of that offence.

Hired vehicles

71.—(1) This Article applies where—

(a) a notice to owner has been served on a vehicle-hire firm,

(b) at the time of the alleged offence the vehicle in respect of which the notice was served was let to another person by the vehicle-hire firm under a hiring agreement to which this Article applies, and

(c) within the period allowed for response to the notice the firm provides the Chief Constable with the documents mentioned in paragraph (2).

(2) Those documents are a statement on an official form, signed by or on behalf of the firm, stating that at the time of the alleged offence the vehicle concerned was hired under a hiring agreement to which this Article applies, together with—

(a) a copy of that hiring agreement, and

(b) a copy of a statement of liability signed by the hirer under that hiring agreement.

(3) In this Article a “statement of liability” means a statement made by the hirer under a hiring agreement to which this Article applies to the effect that the hirer acknowledges that he will be liable, as the owner of the vehicle, in respect of any fixed penalty offence which may be committed with

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respect to the vehicle during the currency of the hiring agreement and giving such information as may be prescribed.

- (4) In any case where this Article applies, Articles 68, 69 and 70 shall have effect as if—
- (a) any reference to the owner of the vehicle were a reference to the hirer under the hiring agreement, and
 - (b) any reference to a statutory statement of ownership were a reference to a statutory statement of hiring,

and accordingly references in this Part (with the exceptions mentioned below) to a notice to owner include references to a notice served under Article 68 as it applies by virtue of this Article.

This paragraph does not apply to references to a notice to owner in this Article or in Article 86(2) (b) or in Part I of Schedule 2.

(5) In any case where this Article applies, a person authorised in that behalf by the Chief Constable may, at any reasonable time within 6 months after service of the notice to owner (and on the production of his authority) require the firm to produce the originals of the hiring agreement and statement of liability in question.

(6) If a vehicle-hire firm fails to produce the original of a document when required to do so under paragraph (5), this Article shall thereupon cease to apply (and Article 69 shall apply accordingly in any such case after that time as it applies in a case where the person on whom the notice to owner was served has failed to provide a statutory statement of ownership in response to the notice within the period allowed).

(7) This Article applies to a hiring agreement under the terms of which the vehicle concerned is let to the hirer for a fixed period of less than 6 months (whether or not that period is capable of extension by agreement between the parties or otherwise); and any reference in this Article to the currency of the hiring agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of the fixed period specified in the agreement, but otherwise on the terms and conditions so specified.

(8) In this Article—

“hiring agreement” refers only to an agreement which contains such particulars as may be prescribed and does not include a hire-purchase agreement within the meaning of the Consumer Credit Act 1974,

“vehicle-hire firm” means any person engaged in hiring vehicles in the course of a business.

False statements in response to notices to owner

72. A person who, in response to a notice to owner, provides a statement which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.

“Owner”, “statutory statement” and “official form”

73.—(1) For the purposes of this Part, the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and for the purposes of determining, in the course of any proceedings brought by virtue of Article 69(3), who was the owner of a vehicle at any time, it shall be presumed that the owner was the person who was the registered keeper of the vehicle at that time.

(2) Notwithstanding the presumption in paragraph (1), it is open to the defence in any proceedings to prove that the person who was the registered keeper of a vehicle at a particular time was not the person by whom the vehicle was kept at that time and to the prosecution to prove that the vehicle was kept by some other person at that time.

(3) References in this Part to statutory statements of any description are references to the statutory statement of that description defined in Schedule 2; and that Schedule shall also have effect for the purpose of requiring certain information to be provided in official forms for the statutory statements so defined to assist persons in completing those forms and generally in determining what action to take in response to a notice to owner.

(4) In this Part “official form”, in relation to a statutory statement mentioned in Schedule 2 or a statement under Article 71(2), means a document supplied by or on behalf of the Chief Constable for use in making that statement.

The fixed penalty procedure

Payment of penalty

74.—(1) Payment of a fixed penalty under this Part must be made to such clerk of petty sessions as may be specified in the fixed penalty notice relating to that penalty.

(2) Without prejudice to payment by any other method, payment of a fixed penalty under this Part may be made by properly addressing, pre-paying and posting a letter containing the fixed penalty notice and the amount of the penalty and, unless the contrary is proved, shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(3) A letter is properly addressed for the purposes of paragraph (2) if it is addressed to the fixed penalty clerk at the address specified in the fixed penalty notice relating to the fixed penalty as the address at which the fixed penalty may be paid.

(4) Sums paid by way of a fixed penalty for an offence shall be treated as if they were fines imposed on summary conviction of that offence.

(5) References in this Part (except in Articles 80 to 82), in relation to any fixed penalty or fixed penalty notice, to the fixed penalty clerk are references to the clerk specified in accordance with paragraph (1) in the fixed penalty notice relating to that penalty or (as the case may be) in that fixed penalty notice.

Registration certificates

75.—(1) This Article and Article 76 apply where by virtue of Article 61(3) or 69(2) a sum determined by reference to the fixed penalty for any offence may be registered under Article 76 for enforcement against any person as a fine.

In this Article and Article 76—

- (a) that sum is referred to as a “sum payable in default”, and
- (b) the person against whom that sum may be so registered is referred to as the “defaulter”.

(2) Subject to paragraph (3), the Chief Constable, or a person authorised by him to act in that behalf, may in respect of any sum payable in default issue a certificate (referred to in this Article and Article 76 as a “registration certificate”) stating that the sum is registrable under Article 76 for enforcement against the defaulter as a fine.

(3) Where the Chief Constable, or a person authorised by him to act in that behalf, issues a registration certificate under this Article, he must cause it to be sent to the clerk of petty sessions for such petty sessions district as the Lord Chancellor may direct.

(4) A registration certificate issued under this Article in respect of any sum payable in default must—

- (a) give particulars of the offence to which the fixed penalty notice relates,
- (b) indicate whether registration is authorised under Article 61(3) or 69(2), and

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- (c) state the name and last known address of the defaulter and the amount of the sum payable in default.

Registration of sums payable in default

76.—(1) Where the clerk of petty sessions receives a registration certificate issued under Article 75 in respect of any sum payable in default, he must register that sum for enforcement as a fine by entering it in the Order Book of a court of summary jurisdiction.

(2) On registering any sum under this Article for enforcement as a fine, the clerk of petty sessions must give to the defaulter notice of registration—

- (a) specifying the amount of that sum and requiring payment of it by such date, not less than 21 days from the date of registration, as may be specified in the notice; and
- (b) giving the information with respect to the offence and the authority for registration included in the registration certificate by virtue of Article 75(4)(a) and (b).

(3) On the registration of any sum in the Order Book of a court of summary jurisdiction by virtue of this Article, any statutory provision referring (in whatever terms) to a fine imposed or a sum adjudged to be paid by a conviction of such a court shall, subject to regulations made under paragraph (4), have effect in the case in question as if the sum so registered were a fine imposed by that court on the conviction of the defaulter on the date of the registration.

(4) The Lord Chancellor may make such regulations with respect to the enforcement of payment of sums registered under this Article as he considers appropriate.

(5) Regulations under paragraph (4) may, in particular,—

- (a) modify the provisions of the Magistrates' Courts (Northern Ireland) Order 1981 relating to the satisfaction and enforcement of sums adjudged to be paid by a conviction, as they have effect by virtue of paragraph (3) in relation to sums registered under this Article; and
- (b) make such incidental, supplemental or consequential provision (including provision to modify a statutory provision) as appears to the Lord Chancellor to be expedient.

(6) In paragraph (5) “modify” includes the making of additions, omissions, exceptions and amendments.

Notices on-the-spot or at a police station: when registration and endorsement invalid

77.—(1) This Article applies where—

- (a) a person who has received notice of the registration, by virtue of Article 61(3), of a sum under Article 76 for enforcement against him as a fine makes a statutory declaration to the effect mentioned in paragraph (2), and
- (b) that declaration is, within 21 days of the date on which the person making it received notice of the registration, served on the clerk of petty sessions.

(2) The statutory declaration must state—

- (a) that the person making the declaration was not the person to whom the relevant fixed penalty notice was given, or
- (b) that he gave notice requesting a hearing in respect of the alleged offence as permitted by the fixed penalty notice before the end of the suspended enforcement period.

(3) In any case within paragraph (2)(a), the relevant fixed penalty notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void.

(4) Where in any case within paragraph (2)(a) the person to whom the relevant fixed penalty notice was given surrendered a licence and its counterpart held by the person making the declaration,

any endorsement of that counterpart made under Article 63 in respect of the offence in respect of which that notice was given shall be void.

(5) In any case within paragraph (2)(b)—

- (a) the registration, any proceedings taken before the declaration was served for enforcing payment of the sum registered, and carry endorsement, in respect of the offence in respect of which the relevant fixed penalty notice was given, made under Article 63 before the declaration was served, shall be void, and
- (b) the case shall be treated after the declaration is served as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.

(6) The clerk of petty sessions must—

- (a) cancel an endorsement of the counterpart of a licence under Article 63 that is void by virtue of this Article on production of the licence and its counterpart to him for that purpose, and
- (b) send notice of the cancellation to the Department.

(7) References in this Article to the relevant fixed penalty notice are to the fixed penalty notice relating to the fixed penalty concerned.

Notices fixed to vehicles: when registration invalid

78.—(1) This Article applies where—

- (a) a person who has received notice of the registration, by virtue of Article 69(2), of a sum under Article 76 for enforcement against him as a fine makes a statutory declaration to the effect mentioned in paragraph (2), and
- (b) that declaration is, within 21 days of the date on which the person making it received notice of the registration, served on the clerk of petty sessions.

(2) The statutory declaration must state either—

- (a) that the person making the declaration did not know of the fixed penalty concerned or of any fixed penalty notice or notice to owner relating to that penalty until he received notice of the registration, or
- (b) that he was not the owner of the vehicle at the time of the alleged offence of which particulars are given in the relevant notice to owner and that he has a reasonable excuse for failing to comply with that notice, or
- (c) that he gave notice requesting a hearing in respect of that offence as permitted by the relevant notice to owner before the end of the period allowed for response to that notice.

(3) In any case within paragraph (2)(a) or (b)—

- (a) the relevant notice to owner,
- (b) the registration, and
- (c) any proceedings taken before the declaration was served for enforcing payment of the sum registered,

shall be void but without prejudice, in a case within paragraph (2)(a), to the service of a further notice to owner under Article 68 on the person making the declaration.

This paragraph applies whether or not the relevant notice to owner was duly served in accordance with that Article on the person making the declaration.

(4) In any case within paragraph (2)(c)—

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- (a) no proceedings shall be taken, after the statutory declaration is served until the end of the period of 21 days following the date of that declaration, for enforcing payment of the sum registered, and
 - (b) where before the end of that period a notice is served by or on behalf of the Chief Constable on the person making the declaration asking him to provide a new statutory statement of ownership to the Chief Constable before the end of the period of 21 days from the date on which the notice is served, no such proceedings shall be taken until the end of the period allowed for response to that notice.
- (5) Where in any case within paragraph (2)(c)—
- (a) no notice is served by or on behalf of the Chief Constable in accordance with paragraph (4), or
 - (b) such a notice is so served and the person making the declaration provides a new statutory statement of ownership in accordance with the notice,
- then—
- (i) the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void, and
 - (ii) the case shall be treated after the time mentioned in paragraph (6) as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.
- (6) The time referred to in paragraph (5) is—
- (a) in a case within sub-paragraph (a) of that paragraph, the end of the period of 21 days following the date of the statutory declaration,
 - (b) in a case within sub-paragraph (b) of that paragraph, the time when the statement is provided.
- (7) In any case where notice is served by or on behalf of the Chief Constable in accordance with paragraph (4), he must cause the clerk of petty sessions to be notified of that fact immediately on service of the notice.
- (8) References in this Article to the relevant notice to owner are to the notice to owner relating to the fixed penalty concerned.

Provisions supplementary to Articles 77 and 78

79.—(1) In any case within Article 77(2)(b) or 78(2) of this Order, Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time) shall have effect as if for the reference to the time when the offence was committed there were substituted a reference to the date of the statutory declaration made for the purposes of Article 77(1) or, as the case may be, 78(1).

(2) Where, on the application of a person who has received notice of the registration of a sum under Article 76 for enforcement against him as a fine, it appears to a court of summary jurisdiction that it was not reasonable to expect him to serve, within 21 days of the date on which he received the notice, a statutory declaration to the effect mentioned in Article 77(2) or, as the case may be, 78(2), the court may accept service of such a declaration by that person after that period has expired.

(3) A statutory declaration accepted under paragraph (2) shall be taken to have been served as required by Article 77(1) or, as the case may be, Article 78(1).

(4) For the purposes of Articles 77(1) and 78(1), a statutory declaration shall be taken to be duly served on the clerk of petty sessions if it is delivered to him, left at his office, or sent in a registered letter or by the recorded delivery service addressed to him at his office.

(5) In Articles 77, 78 and this Article, references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum.

(6) For the purposes of Articles 77, 78 and this Article, a person shall be taken to receive notice of the registration of a sum under Article 76 for enforcement against him as a fine when he receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.

(7) Nothing in the provisions of Article 77, 78 or this Article is to be read as prejudicing any rights a person may have apart from those provisions by virtue of the invalidity of any action purportedly taken under this Part which is not in fact authorised by this Part in the circumstances of the case; and, accordingly, references in those provisions to the registration of any sum or to any other action taken under or by virtue of any provision of this Part are not to be read as implying that the registration or action was validly made or taken in accordance with that provision.

Conditional offer of fixed penalty

Issue of conditional offer

80.—(1) Where—

- (a) a constable has reason to believe that a fixed penalty offence has been committed, and
- (b) no fixed penalty notice in respect of the offence has been given under Article 60 or fixed to a vehicle under Article 67,

a notice under this Article may be sent to the alleged offender by or on behalf of the Chief Constable.

(2) A notice under this Article is referred to in this Article and in Articles 81 and 82 as a “conditional offer”.

(3) Where a person issues a conditional offer, he must notify such clerk of petty sessions as may be specified in the conditional offer of its issue and its terms; and that clerk is referred to in this Article and in Articles 81 and 82 as “the fixed penalty clerk”.

(4) A conditional offer must—

- (a) give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence,
- (b) state the amount of the fixed penalty for that offence, and
- (c) state that proceedings against the alleged offender cannot be commenced in respect of that offence until the end of the period of 28 days following the date on which the conditional offer was issued or such longer period as may be specified in the conditional offer.

(5) A conditional offer must indicate that if the following conditions are fulfilled, that is—

- (a) within the period of 28 days following the date on which the offer was issued, or such longer period as may be specified in the offer, the alleged offender—
 - (i) makes payment of the fixed penalty to the fixed penalty clerk, and
 - (ii) where the offence to which the offer relates is an offence involving obligatory endorsement, at the same time delivers his licence and its counterpart to that clerk, and
- (b) where his licence and its counterpart are so delivered, that clerk is satisfied on inspecting them that, if the alleged offender were convicted of the offence, he would not be liable to be disqualified under Article 40,

any liability to conviction of the offence shall be discharged.

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(6) For the purposes of the condition set out in paragraph (5)(b), it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

Effect of offer and payment of penalty

81.—(1) This Article applies where a conditional offer has been sent to a person under Article 80.

(2) No proceedings shall be brought against any person for the offence to which the conditional offer relates until the Chief Constable receives notice in accordance with paragraph (4) or (5).

(3) Where the alleged offender makes payment of the fixed penalty in accordance with the conditional offer, no proceedings shall be brought against him for the offence to which the offer relates.

(4) Where—

- (a) the alleged offender tenders payment in accordance with the conditional offer and delivers his licence and its counterpart to the fixed penalty clerk, but
- (b) it appears to the clerk, on inspecting the licence and counterpart, that the alleged offender would be liable to be disqualified under Article 40 if he were convicted of the offence to which the conditional offer relates,

then paragraph (3) shall not apply and the clerk must return the licence and its counterpart to the alleged offender together with the payment and give notice that he has done so to the Chief Constable.

(5) Where, on the expiry of the period of 28 days following the date on which the conditional offer was made or such longer period as may be specified in the offer, the conditions specified in the offer in accordance with Article 80(5)(a) have not been fulfilled, the fixed penalty clerk must notify the Chief Constable.

(6) In determining for the purposes of paragraph (4)(b) whether a person convicted of an offence would be liable to disqualification under Article 40, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

(7) In any proceedings a certificate that by a date specified in the certificate payment of a fixed penalty was or was not received by the fixed penalty clerk shall, if the certificate purports to be signed by that clerk, be evidence of the facts stated.

Endorsement where penalty paid

82.—(1) Where—

- (a) in pursuance of a conditional offer a person (referred to in this Article as the “licence holder”) makes payment of the fixed penalty to the fixed penalty clerk and delivers his licence and its counterpart to the clerk, and
- (b) the clerk is not required by paragraph (4) of Article 81 to return the licence and its counterpart to him and did not, before the payment was tendered, notify the Chief Constable under paragraph (5) of that Article,

the clerk must forthwith endorse the relevant particulars on the counterpart of the licence and return it to the licence holder together with the licence.

(2) Subject to paragraph (3), where a cheque tendered in payment is subsequently dishonoured—

- (a) any endorsement made by the fixed penalty clerk under paragraph (1) remains effective, notwithstanding that the licence holder is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and

- (b) the fixed penalty clerk must, upon the expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the Chief Constable that no payment has been made.
- (3) When proceedings are brought against a licence holder after a notice has been given in pursuance of paragraph (2)(b), the court—
 - (a) must order the removal of the fixed penalty endorsement from the counterpart of the licence, and
 - (b) may, on finding the licence holder guilty, make any competent order of endorsement or disqualification and pass any competent sentence.
- (4) The reference in paragraph (1) to the relevant particulars is 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.
- (5) The fixed penalty clerk must send notice to the Department—
 - (a) of any endorsement under paragraph (1) and of the particulars endorsed, and
 - (b) of any order under paragraph (3)(a).
- (6) Where the counterpart of a person's licence is endorsed under this Article he shall be treated for the purposes of Articles 16(4), 30, 31 and 50 of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if—
 - (a) he had been convicted of the offence,
 - (b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49 of this Order, and
 - (c) the particulars of the offence endorsed by virtue of paragraph (4)(a) were particulars of his conviction of that offence.
- (7) In relation to any endorsement of the counterpart of a person's licence under this Article—
 - (a) the reference in Article 50(3) of this Order to the order for endorsement, and
 - (b) the references in Article 16(4) to any order made on a person's conviction,are to be read as a reference to the endorsement itself.

[^{F6}(8) Paragraph (1) is subject to Article 4(4)(a) of, and paragraph 7(4)(a) of Schedule 1 to, the Road Traffic (New Drivers) (Northern Ireland) Order 1998; and the fixed penalty clerk need not comply with paragraph (5)(a) in a case where he sends a person's licence and its counterpart to the Department under Article 4(4)(b) of, or paragraph 7(4)(b) of Schedule 1 to, that Order.]

F6 1998 NI 7

VALID FROM 14/12/2010

[^{F7}Endorsement of driving records where penalty paid

82A.—(1) Where—

- (a) in pursuance of a conditional offer issued under Article 80(1) a person who is not the holder of a licence(referred to in this Article as the “alleged offender”) makes payment of the fixed penalty to the fixed penalty clerk , and
- (b) proceedings against the alleged offender for the offence to which the conditional offer relates are excluded by Article 81,

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the fixed penalty clerk must forthwith send to the Department notice of the relevant particulars to be endorsed on the alleged offender's driving record .

- (2) The Department must endorse the relevant particulars on a person's driving record –
 - (a) on receiving notice under paragraph (1), or
 - (b) if, in pursuance of a conditional offer issued under Article 80(1A), a person who is not the holder of a licence (also referred to in this Article as the “alleged offender”) makes payment of the fixed penalty to it and proceedings against the alleged offender are excluded by Article 81.
- (3) Subject to paragraph (4), where a cheque tendered in payment is subsequently dishonoured–
 - (a) any endorsement made by the Department under paragraph (2) remains effective notwithstanding that the alleged offender is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and
 - (b) unless the appropriate person is the Department, the appropriate person must upon expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the person required to be notified that no payment has been made.
- (4) When proceedings are brought against an alleged offender where paragraph (3) applies, the court–
 - (a) must order the removal of the fixed penalty endorsement from the driving record of the alleged offender,
 - (b) may, on finding the alleged offender guilty, make any competent order of endorsement or disqualification and pass any competent sentence, and
 - (c) must send to the Department notice of any order made under sub-paragraph (a) or (b).
- (5) On receiving a notice under paragraph (4)(c), the Department must make any necessary adjustments to the endorsements on the alleged offender's driving record.
- (6) The references in paragraphs (1) and (2) 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.
- (7) Where a person's driving record is endorsed under this Article, he shall be treated for the purposes of Articles 16(4), 30, 31 and 50A of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if–
 - (a) he had been convicted of the offence,
 - (b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49 of this Order, and
 - (c) the particulars of the offence endorsed by virtue of paragraph (6)(a) were particulars of his conviction of that offence.
- (8) In relation to any endorsement of a person's driving record under this Article, the references in Article 16(4) to any order made on a person's conviction are to be read as references to the endorsement itself.]

F7 Art. 82A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 39(6), **Sch. 4 para. 24**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Proceedings in fixed penalty cases

General restriction on proceedings

83.—(1) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates until the end of the suspended enforcement period.

(2) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates if the fixed penalty is paid in accordance with this Part before the end of the suspended enforcement period.

Statements by constables

84.—(1) In any proceedings a certificate that a copy of a statement by a constable with respect to the alleged offence (referred to in this Article as a “constable’s witness statement”) was included in or given with a fixed penalty notice or a notice under Article 60(3) given to the accused on a date specified in the certificate shall, if the certificate purports to be signed by the constable or authorised person who gave the accused the notice, be evidence of service of a copy of that statement by delivery to the accused on that date.

(2) In any proceedings a certificate that a copy of a constable’s witness statement was included in or served with a notice to owner served on the accused in the manner and on a date specified in the certificate shall, if the certificate purports to be signed by any person employed by the^{F8} Policing Board], be evidence of service in the manner and on the date so specified both of a copy of that statement and of the notice to owner.

(3) Any address specified in any such certificate as is mentioned in paragraph (2) as being the address at which service of the notice to owner was effected shall be taken for the purposes of any proceedings in which the certificate is tendered in evidence to be the accused’s proper address, unless the contrary is proved.

(4) Where a copy of a constable’s witness statement is included in or served with a notice to owner served in any manner in which the notice is authorised to be served under this Part, the statement shall be treated as duly served for the purposes of section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (proof by written statement) notwithstanding that the manner of service is not authorised by subsection (8) of that section.

(5) In relation to any proceedings in which service of a constable’s witness statement is proved by certificate under this Article—

- (a) that service shall be taken for the purposes of subsection (2)(c) of that section (copy of statement to be tendered in evidence to be served before hearing on other parties to the proceedings by or on behalf of the party proposing to tender it) to have been effected by or on behalf of the complainant, and
- (b) subsection (2)(d) of that section (time for objection) shall have effect with the substitution, for the reference to 7 days from the service of the copy of the statement, of a reference to 7 days from the relevant date.

(6) In paragraph (5)(b) “relevant date” means—

- (a) where the accused gives notice requesting a hearing in respect of the offence in accordance with any provision of this Part, the date on which he gives that notice, and
- (b) where a notice in respect of the offence was given to the accused under Article 60(4) but no fixed penalty notice is given in respect of it, the last day for production of the notice under Article 60(5) at a police station in accordance with that Article.

F8 2000 c. 32

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Certificates about payment

85. In any proceedings a certificate—

- (a) that payment of a fixed penalty was or was not received, by a date specified in the certificate, by the fixed penalty clerk, or
- (b) that a letter containing an amount sent by post in payment of a fixed penalty was marked as posted on a date so specified,

shall, if the certificate purports to be signed by the fixed penalty clerk, be evidence of the facts stated.

Documents signed by the accused

86.—(1) Where—

- (a) any person is charged with a fixed penalty offence, and
- (b) the complainant produces to the court a document to which this paragraph applies purporting to have been signed by the accused,

the document shall be presumed, unless the contrary is proved, to have been signed by the accused and shall be evidence in the proceedings of any facts stated in it tending to show that the accused was the owner, the hirer or the driver of the vehicle concerned at a particular time.

(2) Paragraph (1) applies to any document purporting to be—

- (a) a notice requesting a hearing in respect of the offence charged given in accordance with a fixed penalty notice relating to that offence, or
- (b) a statutory statement of any description defined in Schedule 2 or a copy of a statement of liability within the meaning of Article 71 provided in response to a notice to owner.

Miscellaneous

Powers of court where clerk deceived

87.—(1) This Article applies where—

- (a) in endorsing the counterpart of any person's licence under Article 63, the fixed penalty clerk is deceived as to whether endorsement under that Article is excluded by Article 66(2) by virtue of the fact that the licence holder would be liable to be disqualified under Article 40 if he were convicted of the offence; or
- (b) in endorsing the counterpart of any person's licence under Article 82 the fixed penalty clerk is deceived as to whether he is required by Article 81(4) to return the licence and its counterpart without endorsing the counterpart by virtue of the fact that the licence holder would be liable to be disqualified under Article 40 if he were convicted of the offence.

(2) If—

- (a) the deception constituted or was due to an offence committed by the licence holder, and
- (b) the licence holder is convicted of that offence,

the court by or before which he is convicted shall have the same powers and duties as it would have had if he had also been convicted by or before it of the offence of which particulars were endorsed under Article 63 or, as the case may be, Article 82.

Regulations for the purposes of this Part

88.—(1) Except as otherwise provided by paragraph (2), the Department may by regulations make provision as to any matter incidental to the operation of this Part, and in particular—

- (a) for prescribing any information or further information to be provided in any notice, notification, certificate or receipt under Article 58(1), 60(4), 62, 65(1), 68(2), 75(2), 78(4) (b) or 80(1), or in any official form for a statutory statement mentioned in Schedule 2, or a statement under Article 71(2); and
- (b) for requiring any such official form to be served with any notice served under Article 68 or 78(4).

(2) The Lord Chancellor may by regulations prescribe the information to be supplied to the clerk of petty sessions or the fixed penalty clerk in connection with the performance of his duties under this Part.

VALID FROM 14/12/2010

[^{F9}Notices to Department

88A. Any notice sent to the Department under this Part must be sent in such manner and to such address and contain such particulars as the Department may determine.]

F9 Art. 88A inserted (14.12.2010) by [Road Traffic \(Northern Ireland\) Order 2007 \(S.I. 2007/916 \(N.I. 10\)\)](#), arts. 1(3), 39(6), **Sch. 4 para. 27**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

Service of documents

89. Subject to any requirement of this Part with respect to the manner in which a person may be provided with a document for the purposes of this Part, section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply in relation to the service of such a document as if in subsection (1) of that section the word “registering” were omitted.

Functions of traffic wardens

90.—(1) For the purposes of [^{F10} Article 44 of Road Traffic Regulation (Northern Ireland) Order 1997], neither the Chief Constable nor an order under paragraph (1) of that Article may authorise the employment of a traffic warden to discharge any function under this Part in respect of an offence if the offence appears to the traffic warden to be an offence involving obligatory endorsement, unless that offence was committed whilst the vehicle concerned was stationary.

(2) In so far as the Chief Constable or an order under that Article authorises the employment of traffic wardens for the purposes of this Part, references in this Part to a constable or, as the case may be, to a constable in uniform include a traffic warden.

F10 [1997 NI 2](#)

Procedure for making regulations and orders under this Part

91.—(1) Before making—

- (a) an order under Article 57 or 59, or

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- (b) regulations under Article 88(1),
the Department must consult with such representative organisations as it thinks fit.
- (2) Subject to paragraph (3), an order or regulations under any provision of this Part shall be subject to negative resolution.
- (3) Regulations made under Article 76(4) or 88(2) shall be subject to annulment in pursuance of a resolution of either House of Parliament and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

Status:

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