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STATUTORY INSTRUMENTS

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**1996 No. 1320**

**The Road Traffic Offenders (Northern Ireland) Order 1996**

**PART IV**

**FIXED PENALTIES**

*Miscellaneous*

**Powers of court [<sup>F1</sup>in cases of deception]**

**87.—(1)** This Article applies where—

- (a) in endorsing the counterpart of any person's licence under Article 63, the fixed penalty clerk [<sup>F2</sup>or the Department] 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 [<sup>F3</sup>the appropriate person is deceived as to whether proceedings against the person are excluded by Article 81] 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.

[<sup>F4</sup>(1A) This Article also applies where—

- (a) particulars are endorsed on a person's driving record under Article 63A because the fixed penalty clerk or the Department is deceived as to whether endorsement under that Article is excluded by Article 66A(2) by virtue of the fact 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, or
- (b) particulars are endorsed on a person's driving record under Article 82A because the appropriate person or court is deceived as to whether proceedings against the person are excluded by Article 81 by virtue of the fact that the person to whom the conditional offer is issued 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 [<sup>F5</sup>person to whom the fixed penalty notice was given or conditional offer was issued], and
- (b) the [<sup>F6</sup>he] 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 [<sup>F7</sup>or 63A] or, as the case may be, Article 82 [<sup>F8</sup>or 82A].

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**F1** Words in art. 87 heading substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 16, Sch. 2 para. 21(a); S.R. 2010/370, art. 2(1), Sch. Pt. 1

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- F2** Words in art. 87(1)(a) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 16, **Sch. 2 para. 21(b)(i)**; S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1
- F3** Words in art. 87(1)(b) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 16, **Sch. 2 para. 21(b)(ii)**; S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1
- F4** Art. 87(1A) 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. 25(a)**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II
- F5** Words in art. 87(2)(a) substituted (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. 25(b)(i)**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II
- F6** Words in art. 87(2)(b) substituted (14.12.2010) by virtue of Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 39(6), **Sch. 4 para. 25(b)(ii)**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II
- F7** Words in art. 87(2) 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. 25(b)(iii)**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II
- F8** Words in art. 87(2) 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. 25(b)(iv)**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II

### 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) [<sup>F9</sup> or (5C)], 62, 65(1), 68(2), 75(2), 78(4)(b) [<sup>F10</sup>80(1) or (1A) or 81(3)(c) or (4)(b)], 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.

- F9** Words in art. 88(1)(a) 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. 26**; S.R. 2010/370, **art. 2(2)**, Sch. Pt. II
- F10** Words in art. 88(1)(a) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 16, **Sch. 2 para. 22**; S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1

### [<sup>F11</sup>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.]

- F11** 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 [F12 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.

**F12** 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
- (b) regulations under Article 88(1),

the Department must consult with such representative organisations as it thinks fit.

(2) F13 . . . an order or regulations under any provision of this Part shall be subject to negative resolution.

(3) F14 .....

**F13** Words in art. 91(2) omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 153(2)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F14** Art. 91(3) omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 153(2)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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**Changes and effects yet to be applied to :**

- art. 87 heading words substituted by S.I. 2007/916 (N.I.) Sch. 2 para. 21(a)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

- Order transfer of functions by S.R. 2016/76 Sch. 5 Pt. 2
- Order transfer of functions by S.I. 2010/976 Sch. 17 para. 46

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Pt. 4A inserted by S.I. 2007/916 (N.I.) art. 12(1)
- Pt. 4B inserted by 2022 c. 32 s. 89(2)
- s. 40A40B inserted by 2009 c. 25 Sch. 16 para. 4
- art. 15(1) power to apply conferred by S.I. 2007/916 (N.I.) Sch. 1 para. 8
- art. 15(1) power to apply conferred by SI 1981/154 (N.I. 1) Sch. 2A para. 7 (as inserted) by S.I. 2007/916 (N.I.) Sch. 3
- art. 23(2)(g) added by S.R. 2014/230 art. 2
- art. 35(1ZA)-(1ZC) inserted by 2016 c. 11 (N.I.) s. 12(2)
- art. 35(3A) inserted by 2016 c. 11 (N.I.) s. 13(2)
- art. 36(3A) inserted by 2009 c. 25 Sch. 21 para. 92(3)(d)
- art. 36(4A) inserted by 2016 c. 11 (N.I.) s. 14(2)
- art. 37(2A) inserted by 2009 c. 25 Sch. 21 para. 92(4)(c)
- art. 38A(5A) inserted by 2009 c. 25 Sch. 21 para. 92(5)(c)
- art. 38A(6A) inserted by 2009 c. 25 Sch. 21 para. 92(5)(e)
- art. 42(2A) inserted by 2009 c. 25 Sch. 21 para. 92(7)(c)
- art. 42(5) added by S.R. 2016/135 reg. 2(2)
- art. 47(3A) inserted by 2009 c. 25 Sch. 21 para. 92(8)(b)
- art. 47(3B) inserted by 2009 c. 25 Sch. 21 para. 92(8)(c)
- art. 52(2ZA) inserted by 2009 c. 25 Sch. 21 para. 92(9)(b)
- art. 54A inserted by 2016 c. 11 (N.I.) s. 15
- art. 59(2A) inserted by 2016 c. 11 (N.I.) s. 8(2)
- art. 59(4) added by 2016 c. 11 (N.I.) s. 8(3)
- art. 59A-59C inserted by 2016 c. 11 (N.I.) s. 9(1)
- art. 63A(7) added by 2016 c. 11 (N.I.) s. 11(1)(d)
- art. 64B inserted by 2016 c. 11 (N.I.) s. 8(5)
- art. 76(3A)(3B) inserted by 2016 c. 21 (N.I.) Sch. 2 para. 5(3)

**Commencement Orders yet to be applied to the The Road Traffic Offenders (Northern Ireland) Order 1996**

Commencement Orders bringing legislation that affects this Order into force:

- S.R. 2010/226 art. 2Sch. commences (S.I. 2007/916 (N.I.))
- S.R. 2010/370 art. 2Sch. commences (S.I. 2007/916 (N.I.))
- S.R. 2011/286 art. 2Sch. commences (S.I. 2007/916 (N.I.))
- S.R. 2012/16 art. 2 commences (S.I. 1996/1320 (N.I.))
- S.R. 2012/262 art. 2-6 commences (2010 c. 2 (N.I.))
- S.R. 2012/313 art. 2Sch. commences (2008 c. 4)
- S.R. 2014/238 art. 2Sch. commences (2008 c. 4 (N.I.))
- S.R. 2015/284 art. 2Sch. commences (2011 c. 11 (N.I.))

- S.R. 2015/389 art. 2(3)Sch. Pt. 3 commences (2008 c. 4 (N.I.))
- S.R. 2016/387 art. 2 commences (2015 c. 9 (N.I.))
- S.R. 2017/34 art. 2 commences (2010 c. 14 (N.I.))
- S.R. 2018/99 art. 2(a)-(c) commences (2016 c. 21 (N.I.))