

ROAD TRAFFIC (NORTHERN IRELAND) ORDER 2007

S.I. 2007 No. 916 (N.I. 10)

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The Road Traffic (Northern Ireland) Order (“the Order”) was made on 21 March 2007.
2. This Explanatory Memorandum has been prepared by the Department of the Environment (“the Department”) to assist the reader in understanding the Order. It does not form part of the Order.
3. The Order will update existing road traffic legislation to bring it into line with current legislation in Great Britain as well as introduce new road traffic measures in the areas of road safety, driver and vehicle testing and licensing. A range of new offences and penalties are included. The Order replicates certain parts of the Road Safety Act 2006.

BACKGROUND AND POLICY OBJECTIVES

4. A review of the road traffic legislative requirements in Northern Ireland showed that there had been considerable slippage from the comparable legal position in Great Britain and that there was a need to address this imbalance. At the same time, proposals to introduce a range of updated and new provisions were being prepared in both Great Britain and in Northern Ireland. In Great Britain, these proposals have been included in the Road Safety Act 2006, while in Northern Ireland they have been included in this Order.
5. In particular, the Order addresses important road safety issues such as drink and drug driving, speeding, non-wearing of seatbelts, uninsured driving and driving standards. It also contributes to the enforcement of road traffic law by increasing the powers available to the police and vehicle examiners as well as changes to the driver licensing system and the provisions relating to driving instruction.

CONSULTATION

6. The measures contained in the Order have been the subject of a number of separate public consultation exercises. In November 2002 the Northern Ireland Road Safety Strategy 2002-2012 was launched which set out the Department’s framework for improving road safety, several elements of which are given effect in this Order. In March 2003, the Northern Ireland Office launched its consultation document “Road Traffic Penalties in Northern Ireland”, while a second document issued in December 2004 contained a small number of issues.
7. The Driver and Vehicle Testing Agency, an Agency within the Department, issued a consultation paper on the Review of the Approved Driver Instructor Scheme in

February 2002. A number of measures that received widespread support have been included in this Order. The Agency also issued a consultation paper on the proposed mandatory display of vehicle test certificate discs in October 2002, again receiving widespread support for the proposal. In June 2004, the Department consulted on a number of driving licence and seatbelt issues, while in July 2004 proposals relating to the graduated fixed penalty and deposit scheme were published in conjunction with Department for Transport in Great Britain.

MAIN ELEMENTS OF THE ORDER

8. The Order has 86 Articles and 8 Schedules. It is structured in six Parts. The Introductory issues are contained in Part I, while Part II deals with Offences and Enforcement and Part III with Driver Licensing issues. Part IV deals with Driver and Vehicle Testing, Part V with Driving Instruction and a number of Miscellaneous issues are contained in Part VI.

COMMENTARY ON ARTICLES

9. A commentary on the provisions follows below. Comments are not given where the wording is self-explanatory.

Offences and Enforcement

10. Part II includes a number of amendments to existing legislation that revise the penalties for a number of existing offences. They also include the introduction of new measures to extend the enforcement powers of the police and vehicle examiners.
11. Articles 3 to 6 introduce penalty points for non-wearing of a seatbelt, breaching a temporary speed limit, not having proper control of a vehicle and using a hand-held mobile telephone while driving.
12. Articles 10 and 11 provide for certain road traffic offenders to be given the opportunity to attend, at their own cost, a driver retraining course and if they successfully complete the course, they will be entitled to a reduction in the number of penalty points or period of disqualification that would otherwise have been attributed to them. Article 11 also revises the existing Drink-Drive Rehabilitation Scheme to address a number of administrative problems relating to the courts and payment arrangements and allows provision of the course to continue.
13. Under Article 12 the police and vehicle examiners will be able to require the payment of a deposit by a person they believe to have committed an offence in relation to a motor vehicle and who does not provide a satisfactory address in the UK. These provisions, in effect, provide a means of enforcement against foreign drivers who avoid payment of fixed penalties and prosecution by simply leaving the country. It will be open for drivers to contest in court the charge of committing the offence and the deposit may be refunded.
14. Article 13 and Schedule 1 makes provision for the immobilisation, removal and disposal of vehicles where the driving of the vehicle has been prohibited in certain circumstances.
15. Article 14 enables the police to require a person they suspect of having driven whilst under the influence of drugs to undertake a preliminary impairment test

16. Article 16 and Schedule 2 give vehicle examiners the power to issue fixed penalty notices.
17. Article 21 gives the police power to seize vehicles driven without insurance.
18. Articles 22 to 24 introduce the concept of graduated fixed penalties and penalty points. They give the Department power to prescribe graduated penalties and penalty points for offences. The graduations may take account of the circumstances of the offence including the nature of the offence, its severity, the location, and whether the offender appears to have committed other prescribed offences during a prescribed period.
19. Article 25, with certain exceptions, makes it an offence to keep a registered vehicle which does not meet insurance requirements. When such an offence has occurred Schedule 3 makes provision for the immobilisation, removal and disposal of the vehicle.

Driver Licensing

20. Part III includes a number of amendments to existing legislation to bring Northern Ireland into line with the driver licensing system operating presently in Great Britain, together with a number of new measures to be introduced.
21. Article 35 amends the existing arrangement that allows the Department to designate a country or territory that is not an EEA State for the purposes of exchangeable driving licences. It removes an anomaly whereby licence holders from certain countries may exchange their driving licences in Great Britain, but not in Northern Ireland.
22. Article 36 allows the Department to make any driver licensing information held by it available to the police for prescribed purposes.
23. Articles 38, 39 and 40 introduce a new system that will allow for the issue of endorsable fixed penalties to persons without a paper counterpart to their driving licence. This will be achieved by allowing access to the Department's "driving record" rather than having to rely on the counterpart. The new system will initially apply to unlicensed and foreign drivers. Eventually it will be extended to all drivers and counterparts will cease to be part of the driver licensing system.

Driver and Vehicle Testing

24. Part IV introduces a number of new measures relating to the functions of driver and vehicle testing.
25. Article 41 creates a new offence of failing to display a vehicle test certificate in a prescribed manner. Regulations will make this punishable by a fixed penalty of £30.

Driving Instruction

26. Part V is a major rewrite of the registration and regulation of driving instructors in Northern Ireland including the replacement of the Approved Driving Instructor scheme with a new system of registered driving instructors. There are also powers to make further provision by way of regulations. In particular, it sets out the registration and appeal processes, the requirements in relation to examinations and training, extends registration to other vehicle types in addition to cars and makes provision for disabled persons to give paid driving instruction.

This Explanatory Memorandum refers to the Road Traffic (Northern Ireland) Order 2007 (N.I. 10)

Miscellaneous

27. Part VI includes several miscellaneous amendments along with the introduction of a number of new provisions.
28. Article 82 provides the Department with the power to give or arrange training on road safety to road users and to raise a fee for doing so. It also enables the Department for Regional Development to make contributions towards the cost of promoting road safety undertaken by any authority, body or person.

COMMENCEMENT

29. The substantive provisions of the Order will be brought into operation on a day or days to be appointed by commencement order. There is also specific provision to ensure that the following sequence of commencement is followed: power for vehicle examiners to give fixed penalty notices, endorsement where a person does not hold a paper counterpart, followed by the removal of the paper counterpart from the driver licensing system.