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STATUTORY INSTRUMENTS

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**1995 No. 2994**

**The Road Traffic (Northern Ireland) Order 1995**

**PART II**

**Principal Road Safety Provisions**

*Driving Offences*

**Causing death, or grievous bodily injury, by dangerous driving**

9. A person who causes the death of, or grievous bodily injury to, another person by driving a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.

**Dangerous driving**

10. A person who drives a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.

**Meaning of dangerous driving**

11.—(1) For the purposes of Articles 9 and 10 a person is to be regarded as driving dangerously if (and, subject to paragraph (2), only if)—

- (a) the way he drives falls far below what would be expected of a competent and careful driver; and
- (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.

(2) A person is also to be regarded as driving dangerously for the purposes of Articles 9 and 10 if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

(3) In paragraphs (1) and (2) “dangerous” refers to danger either of injury to any person or of serious damage to property; and in determining for the purposes of those paragraphs what would be expected of, or obvious to, a competent and careful driver in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

(4) In determining for the purposes of paragraph (2) the state of a vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried.

**Careless, and inconsiderate, driving**

12. If a person drives a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, he is guilty of an offence.

*Motor vehicles: drink and drugs*

**Interpretation of Articles 14 to 21**

13.—(1) The following provisions apply for the interpretation of Articles 14 to 21.

(2) In those Articles—

“preliminary breath test” means a test for the purpose of obtaining, by means of a device of a type approved by the Head of the Department, an indication whether the proportion of alcohol in a person’s breath or blood is likely to exceed the prescribed limit;

“drug” includes any intoxicant other than alcohol;

“fail” includes refuse;

“hospital” means an institution which provides medical or surgical treatment for in-patients or out-patients;

“the prescribed limit” means, as the case may require—

- (a) 35 microgrammes of alcohol in 100 millilitres of breath,
- (b) 80 milligrammes of alcohol in 100 millilitres of blood, or
- (c) 107 milligrammes of alcohol in 100 millilitres of urine,

or such other proportion as may be prescribed by regulations made by the Department.

(3) A person does not provide a specimen of breath for a preliminary breath test or for analysis unless the specimen—

- (a) is sufficient to enable the test or the analysis to be carried out, and
- (b) is provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved.

(4) A person provides a specimen of blood if and only if he consents to it being taken intravenously by a medical practitioner and is so taken.

(5) A device shall be treated as of a type approved by the Head of the Department for the purpose of obtaining a specimen of breath for a preliminary breath test where a statement that the Head of the Department has approved a device of that type for that purpose is published in the Belfast Gazette.

**Causing death, or grievous bodily injury, by careless driving when under influence of drink or drugs**

14.—(1) If a person causes the death of, or grievous bodily injury to, another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, and—

- (a) he is, at the time when he is driving, unfit to drive through drink or drugs; or
- (b) he has consumed so much alcohol that the proportion of it in his breath, blood or urine at that time exceeds the prescribed limit; or
- (c) he is, within 18 hours after that time, required to provide a specimen in pursuance of Article 18, but without reasonable excuse fails to provide it,

he is guilty of an offence.

(2) For the purposes of this Article a person shall be taken to be unfit to drive at any time when his ability to drive properly is impaired.

(3) Paragraph (1)(b) and (c) shall not apply in relation to a person driving a mechanically propelled vehicle other than a motor vehicle.

### **Driving, or being in charge, when under influence of drink or drugs**

15.—(1) A person who, when driving or attempting to drive a mechanically propelled vehicle on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.

(2) Without prejudice to paragraph (1), a person who, when in charge of a mechanically propelled vehicle which is on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.

(3) For the purposes of paragraph (2), a person shall be deemed not to have been in charge of a mechanically propelled vehicle if he proves that at the material time the circumstances were such that there was no likelihood of his driving it so long as he remained unfit to drive through drink or drugs.

(4) The court may, in determining whether there was such a likelihood as is mentioned in paragraph (3), disregard any injury to him and any damage to the vehicle.

(5) For the purpose of this Article, a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.

(6) A constable may arrest a person without warrant if he has reasonable cause to suspect that that person is or has been committing an offence under this Article.

(7) For the purpose of arresting a person under the power conferred by paragraph (6), a constable may enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be.

### **Driving, or being in charge of, a motor vehicle with alcohol concentration above prescribed limit**

16.—(1) If a person—

- (a) drives or attempts to drive a motor vehicle on a road or other public place, or
- (b) is in charge of a motor vehicle on a road or other public place,

after consuming so much alcohol that the proportion of it in his breath, blood or urine exceed the prescribed limit he is guilty of an offence.

(2) It is a defence for a person charged with an offence under paragraph (1)(b) to prove that at the time he is alleged to have committed the offence the circumstances were such that there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath, blood or urine remained likely to exceed the prescribed limit.

(3) The court may, in determining whether there was such a likelihood as is mentioned in paragraph (2), disregard any injury to him and any damage to the vehicle.

### **Breath tests**

17.—(1) Where a constable in uniform has reasonable cause to suspect

- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his body or has committed a traffic offence whilst the vehicle was in motion; or
- (b) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place with alcohol in his body and that that person still has alcohol in his body; or
- (c) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place and has committed a traffic offence whilst the vehicle was in motion;

he may, subject to Article 20, require him to provide a specimen of breath for a preliminary breath test.

(2) If an accident occurs owing to the presence of a motor vehicle on a road or other public place, a constable may, subject to Article 20, require any person who he has reasonable cause to believe was driving or attempting to drive or in charge of the vehicle at the time of the accident to provide a specimen of breath for a preliminary breath test.

(3) A person may be required under paragraph (1) or (2) to provide a specimen either at or in the vicinity of the place where the requirement is made or, if the requirement is made under paragraph (2) and the constable making the requirement thinks fit, at a police station specified by the constable.

(4) A person who, without reasonable excuse, fails to provide a specimen of breath when required to do so in pursuance of this Article is guilty of an offence.

(5) A constable may arrest a person without warrant if—

- (a) as a result of a preliminary breath test he has reasonable cause to suspect that the proportion of alcohol in that person's breath or blood exceeds the prescribed limit, or
- (b) that person has failed to provide a specimen of breath for a preliminary breath test when required to do so in pursuance of this Article and the constable has reasonable cause to suspect that he has alcohol in his body,

but a person shall not be arrested by virtue of this paragraph when he is at a hospital as a patient.

(6) A constable may, for the purpose of requiring a person to provide a specimen of breath under paragraph (2) in a case where he has reasonable cause to suspect that the accident involved injury to another person or of arresting him in such a case under paragraph (5), enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be.

(7) In this Article "traffic offence" means an offence under—

- (a) any provision of this Order, or
- (b) any provision of the Order of 1981 other than an offence under Article 132, 133, 136, or 137 of that Order.

### **Provision of specimens for analysis**

**18.**—(1) In the course of an investigation into whether a person has committed an offence under Article 14, 15 or 16 a constable may, subject to the following provisions of this Article and Article 20, require him—

- (a) to provide 2 specimens of breath for analysis by means of a device of a type approved by the Head of the Department, or
- (b) to provide a specimen of blood or urine for a laboratory test.

(2) A requirement under paragraph (1)(a) may be made to provide the specimens of breath—

- (a) at or in the vicinity of the place where the requirement is made if facilities for the specimens to be taken are available and it is practicable to take them there, or
- (b) at a police station.

(3) A requirement under paragraph (1)(a) may be made only by a constable who is especially authorised by the Chief Constable to make such requirements.

(4) A requirement under paragraph (1)(b) to provide a specimen of blood or urine can only be made at a police station or at a hospital; and it cannot be made at a police station unless—

- (a) the constable making the requirement has reasonable cause to believe that a specimen of breath cannot be provided or should not be required, or
- (b) at the time the requirement is made a device or a reliable device of the type mentioned in paragraph (1)(a) is not available at the police station or it is then for any other reason not practicable to use such a device there, or

(c) the suspected offence is one under Article 14 or 15 and the constable making the requirement has been advised by a medical practitioner that the condition of the person required to provide the specimen might be due to some drug,  
but may then be made notwithstanding that the person required to provide the specimen has already provided or been required to provide 2 specimens of breath.

(5) If the provision of a specimen other than a specimen of breath may be required in pursuance of this Article the question whether it is to be a specimen of blood or a specimen of urine shall be decided by the constable making the requirement, but if a medical practitioner is of the opinion that for medical reasons a specimen of blood cannot or should not be taken the specimen shall be a specimen of urine.

(6) A specimen or urine shall be provided within one hour of the requirement for its provision being made and after the provision of a previous specimen of urine.

(7) A person who, without reasonable excuse, fails to provide a specimen when required to do so in pursuance of this Article is guilty of an offence.

(8) A constable must, on requiring any person to provide a specimen in pursuance of this Article, warn him that a failure to provide it may render him liable to prosecution.

(9) For the purposes of paragraph (1)(a) a device shall be treated as of a type approved by the Head of the Department where a statement that the Head of the Department has approved a device of that type is included in the Belfast Gazette.

### **Choice of specimens of breath**

**19.**—(1) Subject to paragraph (2), of any 2 specimens of breath provided by any person in pursuance of Article 18, that with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

(2) If the specimen with the lower proportion of alcohol contains no more than 50 microgrammes of alcohol in 100 millilitres of breath, the person who provided it may claim that it should be replaced by such specimen as may be required under Article 18(5) and, if he then provides such a specimen, neither specimen of breath shall be used.

(3) The Department may by regulations substitute another proportion of alcohol in the breath for that specified in paragraph (2).

### **Protection for hospital patients**

**20.**—(1) While a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a preliminary breath test or for analysis, or to provide a specimen of blood or urine for a laboratory test, unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement; and—

- (a) if the requirement is then made, it shall be for the provision of a specimen at the hospital, but
- (b) if the medical practitioner objects on the ground specified in paragraph (2), the requirement shall not be made.

(2) The ground on which the medical practitioner may object is that the requirement or the provision of a specimen or, in the case of a specimen of blood or urine, the warning required under Article 18(8), would be prejudicial to the proper care and treatment of the patient.

### **Detention of persons affected by alcohol or a drug**

**21.**—(1) Subject to paragraphs (2) and (3), a person required to provide a specimen of breath, blood or urine may afterwards be detained at a police station until it appears to the constable that,

were the person then driving or attempting to drive a mechanically propelled vehicle on a road, he would not be committing an offence under Article 15 or 16.

(2) A person shall not be detained in pursuance of this Article if it appears to a constable that there is no likelihood of his driving or attempting to drive a mechanically propelled vehicle whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(3) A constable must consult a medical practitioner on any question arising under this Article whether a person's ability to drive properly is or might be impaired through drugs and must act on the medical practitioner's advice.

#### *Authorised motoring events*

#### **Disapplication of Articles 9, 10 and 12 for authorised motoring events**

**22.**—(1) A person shall not be guilty of an offence under Article 9, 10 and 12 by virtue of driving a vehicle in a public place other than a road if he shows that he was driving in accordance with an authorisation for a motoring event given under regulations made by the Department.

(2) Regulations under this Article may in particular—

- (a) prescribe the persons by whom, and limit the circumstances in which and the places in respect of which, authorisations may be given under the regulations;
- (b) specify conditions which must be included among those incorporated in authorisations;
- (c) provide for authorisations to cease to have effect in prescribed circumstances;
- (d) provide for the procedure to be followed, the particulars to be given, and the amount (or the persons who are to determine the amount) of any fees to be paid, in connection with applications for authorisations.

#### *Protective measures: seat belts, helmets, etc.*

#### **Seat belts: adults**

**23.**—(1) The Department may make regulations requiring, subject to such exceptions as may be prescribed, persons who are driving or riding in motor vehicles on a road to wear seat belts of such description as may be prescribed.

(2) Regulations under this Article—

- (a) may make different provision in relation to different classes of vehicles, different descriptions of persons and different circumstances;
- (b) may, for the purpose of implementing the seat belt Directive, authorise the wearing of a seat belt approved under the law of a member State other than the United Kingdom;
- (c) shall include exceptions for—
  - (i) the users of vehicles constructed or adapted for the delivery of goods or mail to consumers or addressees, as the case may be, while engaged in making local rounds of deliveries;
  - (ii) the drivers of vehicles while performing a manoeuvre which includes reversing;
  - (iii) any person holding a valid certificate signed by a medical practitioner to the effect that it is inadvisable on medical grounds for him to wear a seat belt;
- (d) shall, for the purpose of implementing the seat belt Directive, include an exception for any person holding a certificate to the like effect as that mentioned in sub-paragraph (c)(iii)

which was issued in a member State other than the United Kingdom and which, under the law of that State, is valid for purposes corresponding to those of this Article;

- (e) may make any prescribed exceptions subject to such conditions as may be prescribed; and
- (f) may prescribe cases in which a fee of a prescribed amount may be charged on an application for any certificate required as a condition of any prescribed exception.

(3) A person who drives or rides in a motor vehicle in contravention of regulations under this Article is guilty of an offence; but notwithstanding any enactment or rule of law no person other than the person actually committing the contravention is guilty of an offence by reason of the contravention.

(4) If the holder of any such certificate as is referred to in paragraph (2)(c) or (d) is informed by a constable that he may be prosecuted for an offence under paragraph (3), he is not in proceedings for that offence entitled to rely on the exception afforded to him by the certificate unless—

- (a) it is produced to the constable at the time he is so informed; or
- (b) it is produced—
  - (i) within 7 days after the date on which he is so informed, or
  - (ii) as soon as is reasonably practicable,at such police station as he may have specified to the constable; or
- (c) where it is not produced at such police station, it is not reasonably practicable for it to be produced there before the day on which the proceedings are commenced.

(5) For the purposes of paragraph (4), the service of a summons on the accused shall be treated as the commencement of the proceedings.

(6) Regulations under this Article requiring the wearing of seat belts by persons riding in motor vehicles shall not apply to children under the age of 14 years.

(7) In this Article, “the seat belt Directive” means the Directive of the Council of the European Communities, dated 16th December 1991 (No. 91/671/EEC), on the approximation of the laws of member States relating to compulsory use of safety belts in vehicles of less than 3.5 tonnes.

### **Restriction on carrying children not wearing seat belts in motor vehicles**

**24.—**(1) Except as provided by regulations, where a child under the age of 14 years is in the front of a motor vehicle, a person must not without reasonable excuse drive the vehicle on a road unless the child is wearing a seat belt in conformity with regulations.

(2) It is an offence for a person to drive a motor vehicle in contravention of paragraph (1).

(3) Except as provided by regulations, where a child under the age of 14 years is in the rear of a motor vehicle and any seat belt is fitted in the rear of that vehicle, a person must not without reasonable excuse drive the vehicle on a road unless the child is wearing a seat belt in conformity with regulations.

(4) Except as provided by regulations, where—

- (a) a child who is under the age of 12 years and less than 150 centimetres in height is in the rear of a passenger car;
- (b) no seat belt is fitted in the rear of the passenger car; and
- (c) a seat in the front of the passenger car is provided with a seat belt but is not occupied by any person,

a person must not without reasonable excuse drive the passenger car on a road.

(5) It is an offence for a person to drive a motor vehicle in contravention of paragraph (3) or (4).

(6) Provision may be made by regulations—

- (a) excepting from the prohibition in paragraph (1), (3) or (4) children of any prescribed description, vehicles of a prescribed class or the driving of vehicles in such circumstances as may be prescribed.
  - (b) defining in relation to any class of vehicle what part of the vehicle is to be regarded as the front of the vehicle for the purposes of paragraph (1) or (4) or as the rear of the vehicle for the purposes of paragraph (3) or (4);
  - (c) prescribing for the purposes of paragraph (1) or (3) the descriptions of seat belt to be worn by children of any prescribed description and the manner in which such seat belt is to be fixed and used.
- (7) Without prejudice to the generality of paragraph (6), regulations made by virtue of sub-paragraph (c) of that paragraph may, for the purpose of implementing the seat belt Directive,—
- (a) make different provision in relation to different vehicles and different circumstances;
  - (b) authorise the wearing of a seat belt approved under the law of any member State other than the United Kingdom.
- (8) Regulations made for the purposes of paragraph (3) or (4)—
- (a) shall include an exemption for any child holding a valid certificate signed by a medical practitioner to the effect that it is inadvisable on medical grounds for him to wear a seat belt; and
  - (b) shall, for the purpose of implementing the seat belt Directive, include an exemption for any child holding a certificate to the like effect which was issued in any member State other than the United Kingdom and which, under the law of that state, is valid for purposes corresponding to those of this Article,
- but such regulations may, for the purpose of implementing that Directive, make either of those exemptions subject to such conditions as may be prescribed.
- (9) If the driver of a motor vehicle is informed by a constable that he may be prosecuted for an offence under paragraph (5), he is not in proceedings for that offence entitled to rely on an exception afforded to a child by a certificate referred to in paragraph (8) unless—
- (a) it is produced to the constable at the time he is so informed, or
  - (b) it is produced—
    - (i) within 7 days after the date on which he is so informed, or
    - (ii) as soon as is reasonably practicable,
 at such police station as he may have specified to the constable, or
  - (c) where it is not produced at such police station, it is not reasonably practicable for it to be produced there before the day on which the proceedings are commenced.
- (10) For the purposes of paragraph (9), the service of a summons on the accused shall be treated as the commencement of the proceedings.
- (11) In this Article—
- “maximum laden weight” in relation to a vehicle means—
- (a) in the case of a vehicle in respect of which a gross weight not to be exceeded is specified in construction and use requirements, that weight; or
  - (b) in the case of a vehicle in respect of which no such weight is specified in construction and use requirements, the weight which the vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden,
- and in sub-paragraphs (a) and (b), the expression “construction and use requirements” has the meaning given in Article 53;



“passenger car” means a motor vehicle which—

- (a) is constructed or adapted for use for the carriage of passengers and is not a goods vehicle,
- (b) has no more than 8 seats in addition to the driver’s seat,
- (c) has 4 or more wheels,
- (d) has a maximum design in speed exceeding 25 kilometres per hour, and
- (e) has a maximum laden weight not exceeding 3.5 tonnes;

“regulations” means regulations made by the Department under this Article;

“seat belt” includes any description of restraining device for a child and any reference to wearing a seat belt shall be construed accordingly; and

“the seat belt Directive” has the same meaning as in Article 23.

### **Payments in respect of applicants for exemption from wearing seat belts**

**25.**—(1) The Department may make payments in respect of the examination of applicants falling within any class mentioned in paragraph (2) being applicants for medical certificates required as a condition of any exception prescribed by regulations under Article 23 or 24 (wearing of seat belts).

(2) The classes referred to in paragraph (1) are—

- (a) those in receipt of—
  - (i) attendance allowance under section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(1)</sup>;
  - (ii) a disability living allowance under section 71 of that Act;
  - (iii) disablement pension under section 103 of that Act at a weekly rate increased by virtue of section 104(1) of that Act (constant attendance needed);
  - (iv) an allowance under Article 14 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983<sup>(2)</sup> (constant attendance allowance);
  - (v) a mobility supplement under a scheme made under the Personal Injuries (Emergency Provisions) Act 1939<sup>(3)</sup> or under an Order in Council made under section 12 of the Social Security (Miscellaneous Provisions) Act 1977<sup>(4)</sup> (war pensioners' mobility supplement); or
  - (vi) a disability pension paid by the Secretary of State for Defence on account of disability attributable to injury sustained after 30th September 1921 but before 3rd September 1939 together with a mobility supplement paid under the Naval and Marine Pay and Pensions (Disablement Awards) (No. 2) Order 1984 or under Royal Warrant dated 30th December 1949 or under Queen’s Regulations for the Royal Air Force;
- (b) those in receipt of income support, family credit or disability working allowance and their dependants; and
- (c) those whose names are in the register of disabled persons maintained under section 6 of the Disabled Persons (Employment) Act (Northern Ireland) 1945<sup>(5)</sup>.

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(1) 1992 c. 7  
(2) S.I. 1983/883  
(3) 1939 c. 82  
(4) 1977 c. 5  
(5) 1945 c. 6 (N.I.)

(3) The Department may by order amend paragraph (2) (whether as originally enacted or as previously amended under this paragraph) so as to omit any of the classes mentioned in that paragraph or add to or substitute for any of those classes other classes of any description.

### **Safety equipment for children in motor vehicles**

**26.**—(1) The Department may make regulations prescribing (by reference to shape, construction or any other quality) types of equipment of any description to which this Article applies that are recommended as conducive to the safety in the event of accident of prescribed classes of children in prescribed classes of motor vehicles.

(2) Regulations under this Article may make provision for securing that when equipment of a type prescribed by the regulations is sold, or offered or exposed for sale, as equipment which is so conducive—

- (a) appropriate information is provided in relation to it in such manner as may be prescribed; and
- (b) inappropriate information is not provided in relation to it.

(3) Except in such circumstances as may be prescribed, if a person sells, or offers or exposes for sale, equipment of any description for which a type is prescribed under this Article as equipment which is so conducive and that equipment

- (a) is not of a type so prescribed, or
- (b) is sold, or offered or exposed for sale, in contravention of regulations under this Article,

he is, subject to paragraph (5), guilty of an offence.

(4) Except in such circumstances as may be prescribed, if a person sells, or offers or exposes for sale, equipment of any description for which a type is prescribed under this Article as equipment conducive to the safety in the event of accident

- (a) of children not of a class prescribed in relation to equipment of that type, or
- (b) of children in motor vehicles not of a class prescribed in relation to equipment of that type,

he is, subject to paragraph (5), guilty of an offence.

(5) A person shall not be convicted of an offence under this Article in respect of the sale, or offering or exposing for sale, of equipment if he proves that it was sold or, as the case may be, offered or exposed for sale for export from Northern Ireland.

(6) The provisions of Schedule 1 shall have effect in relation to contraventions of this Article.

(7) This Article applies to equipment of any description for use in a motor vehicle consisting of—

- (a) a restraining device for a child or for a carry-cot, or
- (b) equipment designed for use by a child in conjunction with any description of restraining device.

(8) References in this Article to selling or sale include references to letting on hire and offering or exposing for sale shall be construed accordingly.

### **Wearing of protective headgear**

**27.**—(1) The Department may make regulations requiring, subject to such exceptions as may be specified in the regulations, persons driving or riding (otherwise than in sidecars) on motor cycles of any class or description specified in the regulations to wear protective headgear of such description as may be so specified.

(2) A requirement imposed by regulations under this Article shall not apply to any follower of the Sikh religion while he is wearing a turban.

(3) A person who drives or rides on a motor cycle in contravention of regulations under this Article is guilty of an offence; but notwithstanding any enactment or rule of law no person other than the person actually committing the contravention is guilty of an offence by reason of the contravention unless the person actually committing the contravention is a child under the age of 16 years.

### **Protective helmets for motor cyclists**

**28.**—(1) The Department may make regulations prescribing (by reference to shape, construction or any other quality) types of helmet recommended as affording protection to persons on or in motor cycles, or motor cycles of different classes, from injury in the event of accident.

(2) If a person sells, or offers or exposes for sale, a helmet as a helmet for affording such protection and the helmet is neither—

- (a) of a type prescribed under this Article, nor
- (b) of a type authorised under regulations made under this Article and sold, or offered or exposed for sale, subject to any conditions specified in the authorisation,

subject to paragraph (3), he is guilty of an offence.

(3) A person shall not be convicted of an offence under this Article in respect of the sale, or offering or exposing for sale, of a helmet if he proves that it was sold or, as the case may be, offered or exposed for sale for export from Northern Ireland.

(4) The provisions of Schedule 1 shall have effect in relation to contraventions of this Article.

(5) In this Article and Schedule 1 “helmet” includes any head-dress, and references to selling or sale shall include references to letting on hire and references to offering or exposing for sale shall be construed accordingly.

### **Authorisation of head-worn appliances for use on motor cycles**

**29.**—(1) The Department may make regulations prescribing (by reference to shape, construction or any other quality) types of appliance of any description to which this Article applies as authorised for use by persons driving or riding (otherwise than in sidecars) on motor cycles of any class specified in the regulations.

(2) Regulations under this Article may impose restrictions or requirements with respect to the circumstances in which appliances of any type prescribed by the regulations may be used.

(3) If a person driving or riding on a motor cycle on a road uses an appliance of any description for which a type is prescribed under this Article and that appliance—

- (a) is not of a type so prescribed, or
- (b) is otherwise used in contravention of regulations under this Article,

he is guilty of an offence.

(4) If a person sells, or offers or exposes for sale, an appliance of any such description as authorised for use by persons on or in motor cycles, or motor cycles of any class, and that appliance is not of a type prescribed under this Article as authorised for such use, he is, subject to paragraph (5), guilty of an offence.

(5) A person shall not be convicted of an offence under this Article in respect of the sale, or offering or exposing for sale, of an appliance if he proves that it was sold or, as the case may be, offered or exposed for sale for export from Northern Ireland.

(6) The provisions of Schedule 1 shall have effect in relation to contravention of paragraph (4).

(7) This Article applies to appliances of any description designed or adapted for use—

- (a) with any headgear, or
  - (b) by being attached to or placed upon the head,
- (as, for example, eye protectors or earphones).

(8) References in this Article to selling or sale include references to letting on hire and references to offering or exposing for sale shall be construed accordingly.

*Stopping on verges, etc., or in dangerous positions, etc.*

### **Prohibition of parking of heavy commercial vehicles on verges, central reservations and footways**

**30.**—(1) Subject to paragraph (2), a person who parks a heavy commercial vehicle (as defined in Article 31) wholly or partly—

- (a) on the verge of a road, or
- (b) on any land situated between two carriageways and which is not a footway, or
- (c) on a footway,

is guilty of an offence.

(2) A person shall not be convicted of an offence under this Article in respect of a vehicle if he proves to the satisfaction of the court—

- (a) that it was parked in accordance with permission given by a constable in uniform or a traffic warden;
- (b) that it was parked in contravention of this Article for the purpose of saving life, extinguishing fire or meeting any other like emergency, or because of circumstances beyond the control of the person in charge of the vehicle; or
- (c) that it was parked in contravention of this Article but the conditions specified in paragraph (3) were satisfied.

(3) The conditions mentioned in paragraph (2)(c) are—

- (a) that the vehicle was parked on the verge of a road or on a footway for the purpose of loading or unloading; and
- (b) that the loading or unloading of the vehicle could not have been satisfactorily performed if it had not been parked on the footway or verge; and
- (c) that the vehicle was not left unattended at any time while it was so parked.

(4) In this Article—

“road”, without prejudice to any provision made under Article 20 of the Roads (Northern Ireland) Order 1993(6), does not include a “special road” within the meaning of that Order; and  
“verge” means the unpaved area flanking a carriageway and forming part of the road

### **Definition of “heavy commercial vehicle” for the purposes of Article 30**

**31.**—(1) In Article 30 “heavy commercial vehicle” means any goods vehicle which has an operating weight exceeding 7.5 tonnes.

(2) The operating weight of a goods vehicle for the purposes of this Article is

- (a) in the case of a motor vehicle not drawing a trailer or in the case of a trailer, its maximum laden weight;

- (b) in the case of an articulated vehicle, its maximum laden weight (if it has one) and otherwise the aggregate maximum laden weight of all the individual vehicles forming part of that articulated vehicle; and
- (c) in the case of a motor vehicle (other than an articulated vehicle) drawing one or more trailers, the aggregate maximum laden weight of the motor vehicle and the trailer or trailers attached to it.

(3) In this Article “articulated vehicle” means a motor vehicle with a trailer so attached to it as to be partially superimposed upon it; and references to the maximum laden weight of a vehicle are references to the total laden weight which must not be exceeded in the case of that vehicle if it is to be used in Northern Ireland without contravening any regulations for the time being in force under Article 55.

(4) In this Article, and in the definition of “goods vehicle” in Article 2(2) as it applies for the purposes of this Article, “trailer” means any vehicle other than a motor vehicle.

(5) The Department may by regulations amend paragraphs (1) and (2) (whether as originally enacted or as previously amended under this paragraph)—

- (a) by substituting weights of a different description for any of the weights there mentioned;
- (b) in the case of paragraph (1), by substituting a weight of a different description or amount, or a weight different both in description and amount, for the weight there mentioned.

(6) Without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954(7), different regulations may be made under paragraph (5) as respects different classes of vehicles or as respects the same class of vehicles in different circumstances and as respects different times of the day or night and as respects different localities.

(7) Regulations under paragraph (5) shall not so amend paragraph (1) that there is any case in which a goods vehicle whose operating weight (ascertained in accordance with paragraph (2) as originally enacted) does not exceed 7.5 tonnes is a heavy commercial vehicle for any of the purposes of Article 30.

### **Leaving vehicles in dangerous positions**

**32.** If a person in charge of a vehicle causes or permits the vehicle or a trailer drawn by it to remain at rest on a road in such a position or in such condition or in such circumstances as to cause or to be likely to cause any obstruction or danger, he is guilty of an offence.

#### *Danger to road-users*

### **Causing danger to road-users**

**33.—**(1) A person is guilty of an offence if he intentionally and without lawful authority or reasonable cause—

- (a) causes anything to be on or over a road; or
- (b) interferes with a motor vehicle, trailer or cycle; or
- (c) interferes (directly or indirectly) with traffic equipment,

in such circumstances that it would be obvious to a reasonable person that to do so would be dangerous.

(2) In paragraph (1) “dangerous” refers to danger either of injury to any person while on or near a road, or of serious damage to property on or near a road; and in determining for the purposes of that

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(7) 1954 c. 33 (N.I.)

paragraph that would be obvious to a reasonable person in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

(3) In paragraph (1) “traffic equipment” means—

- (a) anything lawfully placed on or near a road by, or on behalf of, the Department;
- (b) a traffic sign lawfully placed on or near a road by a person other than the Department;
- (c) any fence, barrier or light lawfully placed on or near a road—
  - (i) by a person other than the Department in connection with the execution of works of any description on or in a road; or
  - (ii) by a constable or a person acting under the instructions or directions (whether general or specific) of the Chief Constable.

(4) For the purposes of paragraph (3) anything placed on or near a road shall unless the contrary is proved be deemed to have been lawfully placed there.

(5) In this Article “road” does not include a footpath, public path or other public right of way.

*Other restrictions in interests of safety*

**Restrictions of carriage of persons on motor bicycles**

34.—(1) Not more than one person in addition to the driver may be carried on a motor bicycle.

(2) No person in addition to the driver may be carried on a motor bicycle otherwise than sitting astride the motor bicycle and on a proper seat securely fixed to the motor cycle behind the driver’s seat.

(3) If a person is carried on a motor bicycle in contravention of this Article, the driver of the motor cycle is guilty of an offence.

**Restrictions of carriage of persons on bicycles**

35.—(1) Not more than one person may be carried on a road on a bicycle not propelled by mechanical power unless it is constructed or adapted for the carriage of more than one person.

(2) In this Article references to a person carried on a bicycle include references to a person riding the bicycle.

(3) If a person is carried on a bicycle in contravention of paragraph (1), each of the persons carried is guilty of an offence.

**Tampering with motor vehicles**

36. If, while a motor vehicle is on a road or other public place, a person—

- (a) gets on to the vehicle; or
- (b) tampers with any part of the vehicle or its equipment,

without lawful authority or reasonable cause, he is guilty of an offence.

**Holding or getting on to vehicle in order to be towed or carried**

37.—(1) If, for the purpose of being carried, a person without lawful authority or reasonable cause takes or retains hold of, or gets on to, a motor vehicle or trailer while in motion on a road he is guilty of an offence.

(2) If, for the purpose of being drawn, a person takes or retains hold of a motor vehicle or trailer while in motion on a road he is guilty of an offence.

#### **Pedestrian endangering own safety or that of others**

**38.** If a pedestrian through his own negligence on a road endangers his own safety, or that of any other person, he is guilty of an offence.

#### **Passing with a led horse**

**39.**—(1) A person who, while riding a horse on a road, leads another horse, shall keep that other horse on his left or near side while any person or vehicle is passing him.

(2) A person who contravenes paragraph (1) is guilty of an offence.

#### **Drunkenness, etc., in charge of horse-drawn vehicle**

**40.**—(1) A person who when driving, attempting to drive or in charge of, a vehicle drawn by a horse or other animal on a road or other public place, is unfit to drive through drink or drugs (that is to say, is under the influence of drink or a drug to such extent as to be incapable of having proper control of the vehicle), is guilty of an offence.

(2) Any person liable to be charged with an offence under this Article shall not be liable to be charged under Article 10(2) of the Criminal Justice (Northern Ireland) Order 1980(8) (being drunk while in charge in a road or other public place of an animal).

#### **Careless, and inconsiderate, driving of horse-drawn vehicle**

**41.** If a person drives a vehicle drawn by a horse or other animal on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, he is guilty of an offence.

### *Cycling offences and cycle racing*

#### **Dangerous cycling**

**42.**—(1) A person who rides a cycle dangerously on a road or other public place is guilty of an offence.

(2) For the purposes of paragraph (1), a person is to be regarded as riding dangerously if (and only if)—

- (a) the way he rides falls far below what would be expected of a competent and careful cyclist; and
- (b) it would be obvious to a competent and careful cyclist that riding in that way would be dangerous.

(3) In paragraph (2) “dangerous” refers to danger either of injury to any person or of serious damage to property; and in determining for the purposes of that paragraph what would be obvious to a competent and careful cyclist in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

**Careless, and inconsiderate, cycling**

43. If a person rides a cycle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, he is guilty of an offence.

**Cycling when under influence of drink or drugs**

44. A person who, when riding a cycle on a road or other public place, is unfit to ride through drink or drugs (that is to say, is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the cycle) is guilty of an offence.

**Regulation of cycle racing on public roads**

45.—(1) A person who promotes or takes part in a race or trial of speed on a public road between cycles is guilty of an offence, unless the race or trial

- (a) is authorised; and
- (b) is conducted in accordance with any conditions imposed, by or under regulations under this Article.

(2) The Department may by regulations authorise, or provide for authorising, for the purposes of paragraph (1), the holding on a public road

- (a) of races or trials of speed of any class or description; or
- (b) of a particular race or trial of speed,

in such cases as may be prescribed and subject to such conditions as may be imposed by or under the regulations.

(3) Regulations under this Article may prescribe the procedure to be followed, and the particulars to be given, in connection with applications for authorisation under the regulations.

(4) Without prejudice to any other powers exercisable in that behalf, the Chief Constable may give directions with respect to the movement of, or the route to be followed by, vehicular and other traffic during any period, being directions which it is necessary or expedient to give in relation to that period to prevent or mitigate—

- (a) congestion or obstruction of traffic; or
- (b) danger to or from traffic,

in consequence of the holding of a race or trial of speed authorised by or under regulations under this Article.

(5) Directions under paragraph (4) may include a direction that any road or part of a road specified in the direction shall be closed during the period to such traffic or to such classes or descriptions of traffic as may be so specified.

(6) A person who wilfully contravenes any direction given under paragraph (4) is guilty of an offence.

**Electrically assisted pedal cycles**

46.—(1) An electrically assisted pedal cycle of a class specified in regulations made for the purposes of Article 6 shall not be driven on a road by a person under the age of 14.

(2) A person who—

- (a) drives such a pedal cycle; or
- (b) knowing or suspecting that another person is under the age of 14, causes or permits him to drive such a pedal cycle,



in contravention of paragraph (1), is guilty of an offence.

*Use of motor vehicle etc., away from roads*

**Control of use of public paths, etc., for motor vehicle trials**

47.—(1) A person must not promote or take part in a trial of any description between motor vehicles on a public path or other public right of way unless the holding of the trial has been authorised under this Article by the district council.

(2) A district council shall not give an authorisation under this Article unless satisfied that consent in writing to the use of any length of public path or other public right of way for the purposes of the trial has been given by the owner and by the occupier of the land over which that length of public path or other public right of way runs, and any such authorisation may be given subject to compliance with such conditions as the district council thinks fit.

(3) A person who—

- (a) contravenes paragraph (1); or
- (b) fails to comply with any conditions subject to which an authorisation under this Article has been granted,

is guilty of an offence.

(4) The holding of a trial authorised under this Article is not affected by any statutory provision prohibiting or restricting the use of public paths or other public rights of way or a specified public path or other public right of way; but this Article does not prejudice any right or remedy of a person as having any interest in land.

(5) In the case of a public path or other public right of way which runs over Crown land, the reference in paragraph (2) to the owner of the land shall be construed as a reference to the appropriate authority.

(6) In paragraph (5) “Crown land” and “appropriate authority” have the same meaning as in Article 53 of the Access to the Countryside (Northern Ireland) Order 1983<sup>(9)</sup>.

**Prohibition of driving mechanically propelled vehicles elsewhere than on roads**

48.—(1) Subject to the provisions of this Article, if without lawful authority or reasonable excuse a person drives a mechanically propelled vehicle on to or upon any land in the open air, being land to which the public has or is permitted to have access (whether on payment of a fee or otherwise), he is guilty of an offence.

(2) For the purposes of paragraph (1) “land in the open air” includes a place partly open to the air.

(3) In this Article “land” does not include land forming part of—

- (a) a road, or
- (b) a public place,

on or over which motor vehicles may lawfully be driven.

(4) It is not an offence under this Article to drive a mechanically propelled vehicle on any land within 15 metres of a road, being a road on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land.

(5) It is hereby declared that nothing in this Article prejudices the operation of any byelaws applying to any land, or affects the law of trespass to land or any right or remedy to which a person

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may by law be entitled in respect of any such trespass or in particular confers a right to park a vehicle on any land.

### *Traffic directions and traffic signs*

#### **Contravention of traffic directions or traffic signs**

**49.** If a person, without reasonable excuse, contravenes a direction given by a constable in uniform carrying out functions under the Road Traffic Orders or an indication given by a traffic sign, except where that indication is at variance with a direction given by a constable in uniform, he is guilty of an offence.

#### **Traffic directions for purposes of traffic surveys**

**50.—(1)** A constable in uniform giving a traffic direction for the purposes of a traffic survey of any description which is carried out on or in the vicinity of a road shall be deemed for the purposes of Article 49 to be carrying out functions under the Road Traffic Orders.

(2) Article 49 shall apply to a traffic sign by which an indication is given for the purposes of the survey.

(3) In this Article “traffic direction” and “indication” mean a direction or indication—

- (a) to stop a vehicle,
- (b) to make it proceed in, or keep to, a particular line of traffic, or
- (c) to make it proceed to a particular point on or near the road on which the vehicle is being driven or propelled,

but does not include a direction or indication requiring any person to furnish any information for the purposes of a traffic survey.

(4) The power to give a traffic direction or indication for the purposes of a traffic survey shall be so exercised as not to cause any unreasonable delay to a person who indicates that he is unwilling to furnish any information for the purpose of the survey.

### *Promotion of road safety*

#### **Highway Code**

**51.—(1)** The Highway Code shall continue to have effect, subject however to revision in accordance with the following provisions of this Article.

(2) Subject to the following provisions of this Article, the Department may revise the Highway Code by revoking, varying, amending or adding to the provisions of the Code in such manner as it thinks fit.

(3) Where the Department proposes to revise the Highway Code by making any alterations in the provisions of the Code (other than alterations merely consequential on the passing, amendment or repeal of any statutory provision) the proposed revision shall, as soon as it is prepared by the Department, be subject to negative resolution.

(4) Before revising the Highway Code by making any alterations in its provisions, which under paragraph (3) are subject to negative resolution, the Department must consult with such representative organisations as it thinks fit.

(5) The Department must cause the Highway Code to be printed and may cause copies of it to be sold to the public at such price as the Department may determine.

(6) A failure on the part of any person to observe any provision of the Highway Code shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings (whether civil or criminal, and including proceedings for an offence under the Road Traffic Orders) be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

(7) In this Article “the Highway Code” means the code comprising directions for the guidance of persons using roads issued under Article 130 of the Order of 1981, as from time to time revised under this Article or under any previous enactment.

### **Powers of Department as to giving road safety information and training**

**52.**—(1) The Department may, with the approval of the Department of Finance and Personnel, provide for promoting road safety by disseminating information or advice relating to the use of roads.

(2) The Department must prepare and carry out a programme of measures designed to promote road safety and may, with the approval of the Department of Finance and Personnel, make contributions towards the cost of measures for promoting road safety, being measures taken by any authority, body or person.

(3) Without prejudice to the generality of paragraph (2), in pursuance of its duty under that paragraph the Department—

- (a) must carry out studies into accidents arising out of the use of vehicles on roads or parts of roads;
- (b) must, in the light of those studies, take such measures as appear to the Department to be appropriate to prevent such accidents, including the dissemination of information and advice relating to the use of roads, the giving, or making arrangements for the giving, of practical training to road users or any class or description of road users, the construction, improvement, maintenance or repair of roads which are maintainable by the Department, and other measures taken in the exercise of the Department’s powers for controlling, protecting or assisting the movement of traffic on roads; and
- (c) in constructing new roads, must take such measures as appear to the Department to be appropriate to reduce the possibilities of such accidents when the roads come into use.