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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.

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VALID FROM 16/07/2008

### [<sup>F1</sup>Causing death or grievous bodily injury by careless or inconsiderate driving

**11A.** A person who 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, is guilty of an offence.]

**F1** Art. 11A inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **52(1)** (with art. 52(4)); S.R. 2008/293, **art. 2**, Sch.

### 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.

VALID FROM 16/07/2008

### [<sup>F2</sup>Meaning of careless, or inconsiderate, driving

**12A.—**(1) This Article has effect for the purposes of Articles 11A, 12 and 14.

(2) A person is to be regarded as driving without due care and attention if (and only if) the way he drives falls below what would be expected of a competent and careful driver.

(3) In determining for the purposes of paragraph (2) what would be expected of a careful and competent 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) A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.]

**F2** Art. 12A inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **62**; S.R. 2008/293, **art. 2**, Sch.

VALID FROM 16/07/2008

### [<sup>F3</sup>Causing death or grievous bodily injury by driving: unlicensed, disqualified or uninsured driver

**12B.** A person is guilty of an offence under this Article if he causes the death of, or grievous bodily injury to, another person by driving a motor vehicle on a road and, at the time when he is driving, the circumstances are such that he is committing an offence under—

(a) Article 3(1) of the Road Traffic (Northern Ireland) Order 1981 (driving otherwise than in accordance with a licence),

- (b) Article 90 of that Order (using motor vehicle while uninsured or unsecured against third party risks), or
- (c) Article 168A(1)(c) of that Order (driving while disqualified).]

**F3** Art. 12B inserted (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **53(1)** (with art. 53(3)); S.R. 2008/293, art. 2, Sch.

### *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.

[<sup>F4</sup>“registered health care professional” means a person (other than a medical practitioner) who is one of the following—

- (a) a nurse registered on the register maintained by the Nursing and Midwifery Council pursuant to paragraph 10 of Schedule 2 to the Nursing and Midwifery Order 2001 by virtue of qualifications in nursing; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.]

[<sup>F4</sup>(2A) In paragraph (2) “health care profession” means any profession mentioned in section 60(2) of the Health Act 1999 other than the profession of practising medicine and the profession of nursing.

(2B) An order under paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.]

(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.

[<sup>F4</sup>(4) A person provides a specimen of blood if and only if—

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- (a) he consents to the taking of such a specimen from him intravenously; and
- (b) the specimen is so taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.]

(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.

**F4** 2005 NI 15

**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) <sup>F5</sup> .....

(7) <sup>F5</sup> .....

**F5** Art. 15(6)(7) repealed (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), 41(2), Sch. 1 para. 30, Sch. 2

## **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

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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<sup>[F6]</sup> or]

<sup>[F6]</sup>(c) an offence under any provision of the Offenders Order except Part IV.]

**F6** 1996 NI 10

VALID FROM 15/11/2007

**<sup>[F7]</sup>Preliminary breath test**

**17A.**—(1) A preliminary breath test is a procedure whereby the person to whom the test is administered provides a specimen of breath to be used for the purpose of obtaining, by means of a device of a type approved by the Department, an indication whether the proportion of alcohol in the person's breath or blood is likely to exceed the prescribed limit.

(2) A preliminary breath test administered in reliance on Article 17(2) to (4) may be administered only at or near the place where the requirement to co-operate with the test is imposed.

(3) A preliminary breath test administered in reliance on Article 17(5) may be administered—

- (a) at or near the place where the requirement to co-operate with the test is imposed, or
- (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.

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

**F7** Arts. 17 - 17E substituted (15.11.2007) for art. 17 by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 14; S.R. 2007/454, art. 2, Sch.

VALID FROM 15/11/2007

**<sup>[F8]</sup>Preliminary impairment test**

**17B.**—(1) A preliminary impairment test is a procedure whereby the constable administering the test—

- (a) observes the person to whom the test is administered in his performance of tasks specified by the constable, and
- (b) makes such other observations of the person's physical state as the constable thinks expedient.

(2) The Secretary of State shall issue (and may from time to time revise) a code of practice about—

- (a) the kind of task that may be specified for the purpose of a preliminary impairment test,
  - (b) the kind of observation of physical state that may be made in the course of a preliminary impairment test,
  - (c) the manner in which a preliminary impairment test should be administered, and
  - (d) the inferences that may be drawn from observations made in the course of a preliminary impairment test.
- (3) In issuing or revising the code of practice the Secretary of State shall aim to ensure that a preliminary impairment test is designed to indicate—
- (a) whether a person is unfit to drive, and
  - (b) if he is, whether or not his unfitness is likely to be due to drink or drugs.
- (4) A preliminary impairment test may be administered—
- (a) at or near the place where the requirement to co-operate with the test is imposed, or
  - (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.
- (5) A constable administering a preliminary impairment test shall have regard to the code of practice under this Article.
- (6) A constable may administer a preliminary impairment test only if he is approved for that purpose by the Chief Constable.
- (7) A code of practice under this Article may include provision about—
- (a) the giving of approval under paragraph (6), and
  - (b) in particular, the kind of training that a constable should have undergone, or the kind of qualification that a constable should possess, before being approved under that paragraph.]

**F8** Arts. 17 - 17E substituted (15.11.2007) for art. 17 by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **14**; S.R. 2007/454, **art. 2**, Sch.

**Modifications etc. (not altering text)**

**C1** Art. 17B: functions transferred from Secretary of State to Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(1)(2), **Sch. 1** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

VALID FROM 15/11/2007

**[<sup>F9</sup>Preliminary drug test**

- 17C.**—(1) A preliminary drug test is a procedure by which a specimen of sweat or saliva is—
- (a) obtained, and
  - (b) used for the purpose of obtaining, by means of a device of a type approved by the Department, an indication whether the person to whom the test is administered has a drug in his body.
- (2) A preliminary drug test may be administered—
- (a) at or near the place where the requirement to co-operate with the test is imposed, or

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(b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.

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

**F9** Arts. 17 - 17E substituted (15.11.2007) for art. 17 by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 14; S.R. 2007/454, art. 2, Sch.

VALID FROM 15/11/2007

### Arrest

[<sup>F10</sup>**17D.**—(1) A constable may arrest a person without warrant if as a result of a preliminary breath test the constable reasonably suspects that the proportion of alcohol in the person's breath or blood exceeds the prescribed limit.

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

- (a) the person fails to co-operate with a preliminary test in pursuance of a requirement imposed under Article 17, and
- (b) the constable reasonably suspects that the person has alcohol or a drug in his body or is under the influence of a drug.

(3) A person may not be arrested under this Article while at a hospital as a patient.]

**F10** Arts. 17 - 17E substituted (15.11.2007) for art. 17 by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 14; S.R. 2007/454, art. 2, Sch.

VALID FROM 15/11/2007

### [<sup>F11</sup>Power of entry

**17E.** A constable may enter any place (using reasonable force if necessary) for the purpose of—

- (a) imposing a requirement by virtue of Article 17(5) following an accident in a case where the constable reasonably suspects that the accident involved injury of any person, or
- (b) arresting a person under Article 17D following an accident in a case where the constable reasonably suspects that the accident involved injury of any person.]

**F11** Arts. 17 - 17E substituted (15.11.2007) for art. 17 by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 14; S.R. 2007/454, art. 2, Sch.

### 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
- [<sup>F12</sup>(bb) a device of the type mentioned in paragraph (1)(a) has been used in the circumstances described in paragraph (2) but the constable who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned, 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<sup>F13</sup> and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to paragraph (5A)) by the constable making the requirement].
- [<sup>F13</sup>(5A) Where a constable decides for the purposes of paragraph (5) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—
- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
  - (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner;
- and, where by virtue of this paragraph there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.]
- (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.

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**F12** 1996 c.25

**F13** 2005 NI 15

**[<sup>F14</sup>Specimens of blood taken from persons incapable of consenting**

**18A.**—(1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—

- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under Article 20) be entitled under Article 18 to require the provision of a specimen of blood for a laboratory test;
- (b) it appears to that constable that that person has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter;
- (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
- (d) it appears to that constable that that person's incapacity is attributable to medical reasons.

(2) A request under this Article—

- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
- (b) shall not be made to a medical practitioner other than a police medical practitioner unless—
  - (i) it is not reasonably practicable for the request to be made to a police medical practitioner; or
  - (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.

(3) It shall be lawful for a medical practitioner to whom a request is made under this Article, if he thinks fit—

- (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
- (b) to provide the sample to a constable.

(4) If a specimen is taken in pursuance of a request under this Article, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—

- (a) has been informed that it was taken; and
- (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
- (c) has given his permission.

(5) A constable must, on requiring a person to give his permission for the purposes of this Article for a laboratory test of a specimen, warn that person that a failure to give the permission may render him liable to prosecution.

(6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this Article is guilty of an offence.

(7) In this Article “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of the police.]

**F14** 2005 NI 15

### **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.

[<sup>F15</sup>(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under Article 18A and he shall not be required to give his permission for a laboratory test of a specimen taken under that Article unless the medical practitioner in immediate charge of his case—

- (a) has been notified of the proposal to take the specimen or to make the requirement; and
  - (b) has not objected on the ground specified in paragraph (2).
- (2) The ground on which the medical practitioner may object is—
- (a) in a case falling within paragraph (1), that the requirement or the provision of the specimen or (if one is required) the warning required by Article 18(8) would be prejudicial to the proper care and treatment of the patient; and
  - (b) in a case falling within paragraph (1A), that the taking of the specimen, the requirement or the warning required by Article 18A(5) would be so prejudicial.]

**F15** 2005 NI 15

### **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.

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### *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—
  - [<sup>F16</sup>(i) the driver of, or a passenger in, a motor vehicle constructed or adapted for carrying goods, while on a journey which does not exceed the prescribed distance and which is undertaken for the purpose of delivering or collecting any thing,]
  - (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.

**F16** Art. 23(2)(c)(i) substituted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 26; S.R. 2007/302, art. 2, Sch.

### **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.

[<sup>F17</sup>(1A) Where—

- (a) a child is in the front of a motor vehicle other than a bus;
- (b) the child is in a rear-facing child restraining device; and
- (c) the passenger seat where the child is placed is protected by a front air bag,

a person must not without reasonable excuse drive the vehicle on a road unless the air bag is deactivated.]

(2) It is an offence for a person to drive a motor vehicle in contravention of paragraph (1) [<sup>F18</sup>or (1A)].

[<sup>F19</sup>(3) Except as provided by regulations, where—

- (a) a child under the age of 3 years is in the rear of a motor vehicle; or
- (b) a child of or over that age but 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

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- (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 subparagraph (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—
- ["<sup>F20</sup>“bus” means a motor vehicle that—
- (a) has at least four wheels,

- (b) is constructed or adapted for the carriage of passengers,
- (c) has more than eight seats in addition to the driver's seat, and
- (d) has a maximum design speed exceeding 25 kilometres per hour;]

“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.

[<sup>F21</sup>(12) The reference in paragraph (1A) to the air bag being deactivated includes a reference to the case where the air bag is designed or adapted in such a way that it cannot inflate enough to pose a risk of injury to a child travelling in a rear-facing child restraining device in the seat in question.]

**F17** Art. 24(1A) inserted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations (Northern Ireland) 2007 (S.R. 2007/7), **reg. 4(1)**

**F18** Words in art. 24(2) inserted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations (Northern Ireland) 2007 (S.R. 2007/7), **reg. 4(2)**

**F19** Art. 24(3) substituted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations (Northern Ireland) 2007 (S.R. 2007/7), **reg. 4(3)**

**F20** Art. 24(11): definition of "bus" inserted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations (Northern Ireland) 2007 (S.R. 2007/7), **reg. 4(4)**

**F21** Art. 24(12) inserted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations (Northern Ireland) 2007 (S.R. 2007/7), **reg. 4(5)**

**Modifications etc. (not altering text)**

**C2** Art. 24(1) excluded by S.R. 1993/363, reg. 7(1)(1A) (as substituted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) (Amendment) Regulations (Northern Ireland) 2007 (S.R. 2007/9), **reg. 6**)

**C3** Art. 24(3)(4) excluded by S.R. 1993/362, reg. 10(1) (as substituted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts) (Amendment No. 2) Regulations (Northern Ireland) 2007 (S.R. 2007/8), **reg. 9**)

**C4** Art. 24(3) excluded by S.R. 1993/362, reg. 10(2) (as substituted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts) (Amendment No. 2) Regulations (Northern Ireland) 2007 (S.R. 2007/8), **reg. 9**)

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- C5** Art. 24(3) excluded by S.R. 1993/362, reg. 10(3) (as substituted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts) (Amendment No. 2) Regulations (Northern Ireland) 2007 (S.R. 2007/8), reg. 9)
- C6** Art. 24(3) excluded by S.R. 1993/362, reg. 10(5) (as substituted (27.2.2007) by Motor Vehicles (Wearing of Seat Belts) (Amendment No. 2) Regulations (Northern Ireland) 2007 (S.R. 2007/8), reg. 9)

## **[<sup>F22</sup>Requirement to notify bus passengers to wear seat belts**

**24A.**—(1) Subject to paragraph (6), the operator of a bus in which any of the passenger seats are equipped with seat belts shall take all reasonable steps to ensure that every passenger is notified that he is required to wear a seat belt at all times when—

- (a) he is in a seat equipped with a seat belt; and
- (b) the bus is in motion.

(2) For the purposes of paragraph (1) a passenger may be notified only by one or more of the following means—

- (a) an official announcement, or an audio-visual presentation, made when the passenger joins the bus or within a reasonable time of his doing so;
- (b) a sign prominently displayed at each passenger seat equipped with a seat belt.

(3) For the purposes of paragraph (2)—

- (a) “official announcement” means an announcement by the driver of the bus, by a conductor or courier or by a person who is a group leader in relation to any group of persons who are passengers on the bus; and
- (b) a sign that takes the form of a pictorial symbol must be in the form shown in Schedule 2A, depicting a white figure on a blue background.

(4) An operator who fails to comply with paragraph (1) is guilty of an offence.

(5) Paragraph (1) does not apply in relation to a bus—

- (a) which is being used to provide a local service within the meaning of Article 24B in a built-up area; or
- (b) which is constructed or adapted for the carriage of standing passengers and on which the operator permits standing.

For the purposes of sub-paragraph (a), a local service is provided in a built up area if the entire route used by that service consists of restricted roads.

(6) In this Article—

“bus” has the same meaning as in Article 24;

“operator”, in relation to a bus, means—

- (a) the owner of the bus; or
- (b) if the bus is in the possession of any other person under an agreement for hire, hire-purchase, conditional sale, loan or otherwise, that person;

“passenger seat”, in relation to a bus, means any seat other than the driver's seat;

“restricted road” means a road that is restricted for the purposes of Article 36 of the Road Traffic Regulation (Northern Ireland) Order 1997 (other than a road restricted by an order made under Article 37(3)(a) of that Order) or would be so restricted but for an order under Article 37(3)(b) or an order under Article 38(1)(a) of that Order.



**F22** Arts. 24A - 24B inserted (27.2.2007) by [Motor Vehicles \(Wearing of Seat Belts\) \(Amendment\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/7\)](#), [reg. 5](#)

## Local Service

**24B.**—(1) In Article 24A “local service” means a service using one or more buses, for the carriage of passengers by road at separate fares other than one—

- (a) which is excluded by paragraph (4); or
- (b) in relation to which (except in an emergency) one or both of the conditions in paragraph (2) are met with respect to every passenger using the service.

(2) The conditions are that—

- (a) the place where he is set down is fifteen miles or more, measured in a straight line, from the place where he was taken up;
- (b) some point on the route between those places is fifteen miles or more, measured in a straight line, from either of those places.

(3) Where a service consists of one or more parts with respect to which one or both of the conditions are met, and one or more of the parts with respect to which neither of them is met, each of those parts shall be treated as a separate service for the purposes of paragraph (1).

(4) A service shall not be regarded for the purposes of Article 24A as a local service if—

- (a) the conditions set out in paragraphs (5) to (8) (trips organised privately by persons acting independently of public service vehicle operators) are met in respect of each journey by the vehicles used in providing the service; or
- (b) every vehicle used in providing the service is so used under a permit granted under Section 10B of the Transport Act (Northern Ireland) 1967.

(5) The arrangements for the bringing together of all the passengers for the purpose of making the journey must have been made otherwise than by, or by a person acting on behalf of—

- (a) the holder of the Road Service licence under which the vehicle is to be used, if such a licence is in force;
- (b) the driver or the owner of the vehicle or any person who has made the vehicle available under any arrangement, if no such licence is in force,

and otherwise than by any person who receives any remuneration in respect of the arrangements.

(6) The journey must be made without previous advertisement to the public of the arrangements therefor.

(7) All the passengers must, in the case of a journey to a particular destination, be carried to, or to the vicinity of, that destination, or, in the case of a tour, be carried for the greater part of the journey.

(8) No differentiation of fares for the journey on the basis of distance or time must be made.

(9) For the purposes of this Article—

- (a) a payment made for the carrying of a passenger shall be treated as a fare notwithstanding that it is made in consideration of other matters in addition to the journey and irrespective of the person by or to whom it is made;
- (b) a payment shall be treated as made for the carrying of a passenger if made in consideration of a person being given a right to be carried, whether for one or more journeys and whether or not the right is exercised; and
- (c) where a fare is paid for the carriage of a passenger on a journey by air, no part of that fare shall be treated for the purposes of sub-paragraphs (a) and (b) above as paid in

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consideration of the carriage of the passenger by road by reason of the fact that, in case of mechanical failure, bad weather or other circumstances outside the operator's control, part of that journey may be made by road.]

**F22** Arts. 24A - 24B inserted (27.2.2007) by [Motor Vehicles \(Wearing of Seat Belts\) \(Amendment\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/7\)](#), **reg. 5**

### 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>F23</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>F24</sup> (constant attendance allowance);
- (v) a mobility supplement under a scheme made under the Personal Injuries (Emergency Provisions) Act 1939<sup>F25</sup> or under an Order in Council made under section 12 of the Social Security (Miscellaneous Provisions) Act 1977<sup>F26</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,<sup>F27</sup> an income-based jobseeker's allowance within the meaning of the Jobseekers (Northern Ireland) Order 1995]<sup>F28</sup> any element of child tax credit other than the family element or working tax credit] and their dependants; and

<sup>F29</sup>(bb) those in receipt of guarantee state pension credit (under section 1(3)(a) of the State Pension Credit Act (Northern Ireland) 2002) and those persons who (within the meaning of that Act) are members of a<sup>F30</sup> couple] the other member of which is in receipt of guarantee state pension credit;]

(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>F31</sup>.

(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.

**F23** 1992 c. 7

**F24** SI 1983/883

<b>F25</b>	1939 c. 82
<b>F26</b>	1977 c. 5
<b>F27</b>	SR 1996/146
<b>F28</b>	2002 c. 21
<b>F29</b>	2002 c. 14 (NI)
<b>F30</b>	SR 2005/479
<b>F31</b>	1945 c. 6 (NI)

### **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

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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<sup>F32</sup>, 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

**F32** 1993 NI 15

*Status: Point in time view as at 27/06/2007. This version of this part contains provisions that are not valid for this point in time.*

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

**31**<sup>F33</sup>.—(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<sup>F34</sup>, 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.

**F33** functions transf. SR 2001/229

**F34** 1954 c.33 (NI)

### 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<sup>F35</sup> involve a danger of injury to other persons using the road], he is guilty of an offence.

**F35** 1996 NI 10

## *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 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) <sup>F36</sup> 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.

**F36** functions transf. SR 2001/229

## *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.

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(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<sup>F37</sup> (being drunk while in charge in a road or other public place of an animal).

**F37** 1980 NI 6

### **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**<sup>F38</sup>.—(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

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(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.

**F38** functions transf. SR 2001/229

### **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>F39</sup>.

**F39** 1983 NI 18

### **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 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*

#### **[<sup>F40</sup>Contravention of directions**

**49.**—(1) If a person, without reasonable excuse, contravenes a direction given by a constable in uniform carrying out functions under the Road Traffic Orders, he is guilty of an offence.

(2) A constable in uniform giving a 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 paragraph (1) to be carrying out functions under the Orders referred to in paragraph (1).

(3) The power to give a direction 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 purposes of the survey.

(4) In paragraphs (2) and (3) “direction” means a direction—

- (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 requiring any person to furnish any information for the purposes of a traffic survey.]

**F40** 1997 NI 2

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**Modifications etc. (not altering text)**

- C7** [Art. 49](#) modified by 2003 (c. 6), Sch. 2A para. 13(3) (as inserted (22.4.2007) by [Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(3), 7(8), [Sch. 5](#))

**[<sup>F41</sup>Contravention of traffic signs**

<sup>F42</sup>**50.**—(1) If a person, without reasonable excuse, contravenes an indication given by a traffic sign which is—

- (a) of the prescribed size, colour and type, or
- (b) of another character authorised by the Department under Article 28 of the Road Traffic Regulation (Northern Ireland) Order 1997,

and which has been lawfully placed on or near a road, except where that indication is at variance with an indication given by a constable in uniform, he is guilty of an offence.

(2) A traffic sign shall not be treated for the purposes of this Article as having been lawfully placed unless either—

- (a) the indication given by the sign is an indication of a statutory prohibition, restriction or requirement, or
- (b) it is expressly provided by or under any provision of the Road Traffic Orders that this Article shall apply to the sign or to signs of a type of which the sign is one;

and, where the indication mentioned in sub-paragraph (a) is of the general nature only of the prohibition, restriction or requirement to which the sign relates, a person shall not be convicted of failure to comply with the indication unless he has failed to comply with the prohibition, restriction or requirement to which the sign relates.

(3) For the purposes of this Article a traffic sign placed on or near a road shall be deemed—

- (a) to be of the prescribed size, colour and type, or of another character authorised by the Department under Article 28 of the Road Traffic Regulation (Northern Ireland) Order 1997, and
- (b) (subject to paragraph (2)) to have been lawfully so placed,

unless the contrary is proved.

(4) Where a traffic survey of any description is carried out on or in the vicinity of a road, this Article applies to a traffic sign by which a direction (as defined in Article 49(4)) is given for the purposes of the survey.

(5) The Department may make regulations specifying any traffic sign for the purposes of column (5) of the entry in Schedule 1 to the Offenders Order relating to offences under this Article (offences committed by contravention of certain traffic signs involve discretionary disqualification).]

**F41** [1997 NI 2](#)

**F42** [functions transf. SR 2001/229](#)

**Modifications etc. (not altering text)**

- C8** [Art. 50](#) applied by 2003 (c. 6), Sch. 2A para. 13(5) (as inserted (22.4.2007) by [Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(3), 7(8), [Sch. 5](#))

## 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.<sup>F43</sup> . . .
- (c) <sup>F44</sup> .....

<sup>F45</sup>(4) The Department may give, or make arrangements for the giving of, training on road safety to road users, or any class or description of road users, on payment of a fee.

(5) The Department may by regulations, in respect of any fees that may be charged under paragraph (4)—

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- (a) make provision for the payment of fees of such amounts as are prescribed by the regulations;
- (b) specify the maximum fees that a person may be required to pay;
- (c) specify the persons to whom such fees are payable;
- (d) provide for the times at which, and method by which, fees are payable.]

- F43** Words in art. 52(3)(b) repealed (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 82(1)(a), 86(2), **Sch. 8 Pt. I**; S.R. 2007/302, **art. 2**, Sch.
- F44** Art. 52(3)(c) repealed (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 82(1)(b), 86(2), **Sch. 8 Pt. I**; S.R. 2007/302, **art. 2**, Sch.
- F45** Art. 52(4)(5) inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **82(1)(c)**; S.R. 2007/302, **art. 2**, Sch.

#### [<sup>F46</sup> **Functions of Department for Regional Development as to road safety**

**52A.—(1)** The Department for Regional Development (in this Article “the Department”) must prepare and carry out a programme of measures designed to improve road safety.

(2) The Department may, with the approval of the Department of Finance and Personnel, make contributions towards the cost of measures for promoting road safety which are taken by any authority, body or person.

(3) Without prejudice to the generality of paragraph (1), 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 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;
- (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.]

- F46** Art. 52A inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **82(2)**; S.R. 2007/302, **art. 2**, Sch.

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