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STATUTORY INSTRUMENTS

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**1996 No. 1320**

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

**PART II**

**TRIAL**

*Introductory*

**Requirement of warning etc. of prosecutions for certain offences**

5.—(1) Subject to Article 6, a person shall not be convicted of an offence to which this Article applies unless—

- (a) he was warned at the time the offence was committed or within 24 hours thereafter that the question of prosecuting him for some one or other of the offences to which this Article applies would be taken into consideration, or
- (b) within 14 days of the commission of the offence a summons for the offence was served on him, or
- (c) within 14 days of the commission of the offence a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was—
  - (i) in the case of an offence under Article 42 or 43 of the Order of 1995 (cycling offences), served on him,
  - (ii) in the case of any other offence, served on him or on the person, if any, registered as the keeper of the vehicle at the time of the commission of the offence.

[<sup>F1</sup>(1A) Section 24 of the Interpretation Act (Northern Ireland) 1954 (service of documents) shall apply in relation to the service of notices required to be served by this Article as if in subsection (1) of that section the word “registering” were omitted.]

(2) A notice shall be deemed for the purposes of paragraph (1)(c) to have been served on a person if it was sent by registered post or recorded delivery service addressed to him at his last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by him.

(3) The requirement of paragraph (1) shall in every case be deemed to have been complied with unless and until the contrary is proved.

(4) This Article applies to—

- [<sup>F2</sup>(a) an offence under any of the following provisions of the Road Traffic Regulation (Northern Ireland) Order 1997—
  - (i) Article 7 (temporary traffic regulation) consisting in the contravention of a temporary speed limit under paragraph (3)(b) of that Article,
  - (ii) Article 43 (contravening speed limit);]
  - (b) an offence under any of the following provisions of the Order of 1995—

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- (i) Article 10 (dangerous driving),
  - (ii) Article 12 (careless, and inconsiderate, driving),
  - (iii) Article 32 (leaving vehicles in dangerous positions),
  - (iv) Article 42 (dangerous cycling),
  - (v) Article 43 (careless, and inconsiderate, cycling),
  - (vi) Article 49<sup>F3</sup> or 50] (contravention of traffic directions or traffic signs);
  - (c) an offence consisting of the driving of a vehicle in contravention of any regulation made under the<sup>F3</sup> Road Traffic Regulation (Northern Ireland) Order 1997] with respect to traffic signs
- (5) The Department may by order, made subject to negative resolution, specify any other offence to which this Article is to apply.

- F1** Art. 5(1A) inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **28**; S.R. 2007/302, **art. 2**, Sch.
- F2** Art. 5(4)(a) substituted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), **Sch. 7 para. 16**; S.R. 2007/302, **art. 2**, Sch.
- F3** 1997 NI 2

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

- C1** Art. 5 power to apply conferred (23.4.2012) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, **Sch. 1 para. 8**; S.R. 2012/16, **art. 2**, Sch.
- C2** Art. 5 power to apply conferred by S.I. 1981/154 (N.I. 1), Sch. 2A para. 7 (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), **Sch. 3**)
- C3** Art. 5 applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(a)}

**Requirement of warning etc: supplementary**

6.—(1) The requirement of Article 5(1) does not apply in relation to an offence if, at the time of the offence or immediately after it, an accident occurs owing to the presence on a road of the vehicle in respect of which the offence was committed.

(2) The requirement of Article 5(1) does not apply in relation to an offence in respect of which—

- (a) a fixed penalty notice (within the meaning of Part IV) has been given or fixed under any provision of that Part; or
- (b) a notice has been given under Article 60(4).

(3) Failure to comply with the requirement of Article 5(1) is not a bar to the conviction of the accused in a case where the court is satisfied—

- (a) that the accused was not prejudiced in his defence by the failure; or
- (b) that neither the name and address of the accused nor the name and address of the registered keeper, if any, could with reasonable diligence have been ascertained in time for a summons to be served or for a notice to be served or sent in compliance with the requirement; or
- (c) that the accused by his own conduct contributed to the failure.

(4) Failure to comply with the requirement of Article 5(1) in relation to an offence is not a bar to the conviction of a person of that offence by virtue of the provisions of—

- (a) Article 26; or

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(b) section 6(2) of the Criminal Law Act (Northern Ireland) 1967;  
but a person is not to be convicted of an offence by virtue of any of those provisions if Article 5 applies to the offence with which he was charged and the requirement of Article 5(1) was not satisfied in relation to the offence charged.

### Restriction on institution of proceedings for certain offences

7.—<sup>[F4(1)]</sup> Proceedings for an offence under Article 11(3) of the Order of 1981 (notice about relevant or prospective disability) shall not be instituted except by the Department or by a constable acting with the approval of the Department.

<sup>[F4(2)]</sup> In paragraph (1) the reference to Article 11(3) of the Order of 1981 includes a reference to that provision as applied by Article 15D<sup>[F5]</sup> or 19H<sup>[F5]</sup> of that Order.]

<b>F4</b>	SR 1997/241
<b>F5</b>	2003 NI 16

### Jurisdiction in prosecutions under Articles 56 and 81(1) of the Order of 1981

8. An offence under Article 56 of the Order of 1981 (or that Article as applied by Article 63 of that Order) or Article 81(1) of that Order may be treated, for the purpose of conferring jurisdiction on a court (but without prejudice to any jurisdiction it may have apart from this Article) as having been committed in any of the following places, that is to say—

- (a) the place where the person charged with the offence was driving when evidence of the offence first came to the attention of a constable or an examiner appointed under Article 74 of the Order of 1995;
- (b) the place where that person resides or is, or is believed to reside or be, at the time when the proceedings are commenced; or
- (c) the place where at that time that person or, in the case of an employee-driver, that person's employer or, in the case of an owner-driver, the person for whom he was driving, has his place or principal place of business or his operating centre for the vehicle in question.

### Power to join in indictment counts for certain summary offences

9.—(1) A count charging a person with a summary offence to which this Article applies may be included in an indictment if the charge—

- (a) is founded on the same facts or evidence as a count charging an indictable offence; or
- (b) is part of a series of offences of the same or similar character as an indictable offence which is also charged,

but only if (in either case) the facts or evidence relating to the offence were disclosed in a preliminary<sup>F6</sup>... inquiry under the Magistrates' Courts (Northern Ireland) Order 1981.

(2) Where a count charging an offence to which this Article applies is included in an indictment, the offence shall be tried in the same manner as if it were an indictable offence; but the Crown Court may only deal with the offender in respect of it in a manner in which a court of summary jurisdiction could have dealt with him.

(3) This Article applies to—

- (a) an offence under either of the following provisions of the Order of 1981—
  - (i) Article 90 (using motor vehicle without insurance or security against third party risks),

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- (ii) Article 175(2) (failure to comply with duties on occurrence of accident caused by a mechanically propelled vehicle);
- (b) an offence under any of the following provisions of the Order of 1.995—
  - (i) Article 15(1) or (2) (driving or attempting to drive, or being in charge of, a mechanically propelled vehicle when under influence of drink or drugs),
  - (ii) Article 16(1)(a) or (b) (driving or attempting to drive, or being in charge of, a motor vehicle with alcohol concentration above the prescribed limit),
  - (iii) Article 18 (failing to provide specimen for analysis or laboratory test);
- (c) any summary offence specified under paragraph (4).
- (4) The Secretary of State may by order specify for the purposes of this Article any summary offence—
  - (a) which is mentioned in Schedule 1, and
  - (b) which is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.
- (5) For the purposes of this Article statements in writing admitted in evidence under Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981 shall be treated as depositions taken in the presence of the accused before the magistrates' court which committed him for trial.
- (6) An order made under this Article shall be subject to<sup>[F7]</sup> negative resolution].
- (7) In this Article “summary offence” means an offence which, if committed by an adult, is punishable only on summary conviction.

- F6** Words in art. 9(1) repealed (17.10.2022) by Criminal Justice (Committal Reform) Act (Northern Ireland) 2022 (c. 4), s. 5(2), **Sch. para. 13**; S.R. 2022/221, art. 2(d)
- F7** Words in art. 9(6) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 16(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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

- C4** Art. 9 functions of the Secretary of State are transferred to the 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 para. 18** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**Time within which summary proceedings for certain offences must be commenced**

**10.**—(1) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981, summary proceedings for an offence to which this Article applies may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the complainant to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this Article more than 3 years after the commission of the offence.

(2) For the purposes of this Article a certificate signed by or on behalf of the complainant and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(3) This Article applies to—

- (a) an offence under any of the following provisions of the Order of 1981—

[<sup>F8</sup>(iz) Article 9(13) (driving after making false declaration as to physical fitness),]

- (i) Article 11(3) (failure to notify Department of onset of, or deterioration in, relevant or prospective disability)<sup>F9</sup> and that provision as applied by Article 15D of that Order],  
<sup>F10</sup>(ia) Article 11(3B) (driving after such a failure),
- (ib) Article 11A (driving after refusal of licence under Article 9(3) or revocation under Article 10(1) or (2)),]
- (ii) Article 15(7) (driving licence holder failing when his licence is revoked, to surrender it or, when his particulars become incorrect, to surrender the licence and counterpart and give particulars),  
<sup>F9</sup>(iia) Article 15B(11) (driving after failure to comply with a requirement under Article 15B(6), (7) or (10)),]
- (iii) Article 90 (using, etc. motor vehicle without insurance or security against third party risks),  
<sup>F11</sup>(iiia) Article 168A(1) (applying for or obtaining a driving licence, or driving while disqualified),]
- (iv) <sup>F12</sup> .....
- (v) <sup>F12</sup> .....
- (vi) <sup>F12</sup> .....
- (vii) Article 174(1) (making false statements or withholding information in connection with applications for licences, etc.);
- (b) an offence under Article 72 of this Order.
- <sup>F13</sup>(c) an offence under paragraph 3(5) of Schedule 1 to the Road Traffic (New Drivers) (Northern Ireland) Order 1998.]

<b>F8</b>	Art. 10(3)(a)(iz) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), <b>Sch. 7 para. 17(a)</b> ; S.R. 2007/454, <b>art. 2</b> , Sch.
<b>F9</b>	SR 1997/241
<b>F10</b>	Art. 10(3)(ia)(ib) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), <b>Sch. 7 para. 17(b)</b> ; S.R. 2007/454, <b>art. 2</b> , Sch.
<b>F11</b>	Art. 10(3)(a)(iiia) inserted (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), <b>Sch. 7 para. 17(c)</b> ; S.R. 2007/454, <b>art. 2</b> , Sch.
<b>F12</b>	Art. 10(3)(a)(iv)(v)(vi) repealed (15.11.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(2), <b>Sch. 8 Pt. I</b> ; S.R. 2007/454, <b>art. 2</b> , Sch.
<b>F13</b>	1998 NI 7
<b>Modifications etc. (not altering text)</b>	
<b>C5</b>	Art. 10 power to apply conferred (23.4.2012) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 13, <b>Sch. 1 para. 8</b> ; S.R. 2012/16, <b>art. 2</b> , Sch.
<b>C6</b>	Art. 10 power to apply conferred by S.I. 1981/154 (N.I. 1), Sch. 2A para. 7 (as inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 25(3), <b>Sch. 3</b> )
<b>C7</b>	Art. 10 applied (1.7.2012) by Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 (c. 2), <b>ss. 45(2)</b> , 60(2); S.R. 2012/262, <b>art. 2</b>
<b>C8</b>	Art. 10 applied (prosp.) by Transport Act (Northern Ireland) 2011 (c. 11), <b>ss. 31(2)</b> , 48(2)
<b>C9</b>	Art. 10 applied (23.4.2012) by Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 (S.R. 2012/ 19), {reg. 21(b)}
<b>C10</b>	Art. 10 applied (5.10.2015) by Transport Act (Northern Ireland) 2011 (c. 11), <b>ss. 31(2)</b> , 48(2); S.R. 2015/284, <b>art. 2(1)</b> , Sch.

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### **Duty of accused to provide licence**

**11.** A person who is prosecuted for an offence involving obligatory or discretionary disqualification and who is the holder of a licence must—

- (a) cause it to be delivered to the clerk of the court before which the proceedings are brought, not later than the day before the date appointed for the hearing, or
- (b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or
- (c) have it with him at the hearing;

and the foregoing obligations imposed on him as respects the licence also apply as respects the counterpart to the licence.

### **Duty to include date of birth and sex in written plea of guilty**

**12.** A person who gives notification to the clerk of petty sessions in pursuance of Article 24(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (written pleas of guilty) in respect of an offence involving obligatory or discretionary disqualification or such other offence as may be prescribed by regulations made under Article 19C of the Order of 1981 (regulations under Part II of that Order), must include in the notification a statement of the date of birth and sex of the accused.

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