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STATUTORY INSTRUMENTS

1996 No. 1320

The Road Traffic Offenders (Northern Ireland) Order 1996

PART IV

FIXED PENALTIES

Conditional offer of fixed penalty

Issue of conditional offer

80.—(1) Where—

- (a) a constable has reason to believe that a fixed penalty offence has been committed, and
- (b) no fixed penalty notice in respect of the offence has been given under Article 60 or fixed to a vehicle under Article 67,

a notice under this Article may be sent to the alleged offender by or on behalf of the Chief Constable.

(2) A notice under this Article is referred to in this Article and in Articles 81 and 82 as a “conditional offer”.

(3) Where a person issues a conditional offer, he must notify such clerk of petty sessions as may be specified in the conditional offer of its issue and its terms; and that clerk is referred to in this Article and in Articles 81 and 82 as “the fixed penalty clerk”.

(4) A conditional offer must—

- (a) give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence,
- (b) state the amount of the fixed penalty for that offence, and
- (c) state that proceedings against the alleged offender cannot be commenced in respect of that offence until the end of the period of 28 days following the date on which the conditional offer was issued or such longer period as may be specified in the conditional offer.

(5) A conditional offer must indicate that if the following conditions are fulfilled, that is—

- (a) within the period of 28 days following the date on which the offer was issued, or such longer period as may be specified in the offer, the alleged offender—
 - (i) makes payment of the fixed penalty to the fixed penalty clerk, and
 - (ii) where the offence to which the offer relates is an offence involving obligatory endorsement, at the same time delivers his licence and its counterpart to that clerk, and
- (b) where his licence and its counterpart are so delivered, that clerk is satisfied on inspecting them that, if the alleged offender were convicted of the offence, he would not be liable to be disqualified under Article 40,

any liability to conviction of the offence shall be discharged.

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(6) For the purposes of the condition set out in paragraph (5)(b), it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

Effect of offer and payment of penalty

81.—(1) This Article applies where a conditional offer has been sent to a person under Article 80.

(2) No proceedings shall be brought against any person for the offence to which the conditional offer relates until the Chief Constable receives notice in accordance with paragraph (4) or (5).

(3) Where the alleged offender makes payment of the fixed penalty in accordance with the conditional offer, no proceedings shall be brought against him for the offence to which the offer relates.

(4) Where—

- (a) the alleged offender tenders payment in accordance with the conditional offer and delivers his licence and its counterpart to the fixed penalty clerk, but
- (b) it appears to the clerk, on inspecting the licence and counterpart, that the alleged offender would be liable to be disqualified under Article 40 if he were convicted of the offence to which the conditional offer relates,

then paragraph (3) shall not apply and the clerk must return the licence and its counterpart to the alleged offender together with the payment and give notice that he has done so to the Chief Constable.

(5) Where, on the expiry of the period of 28 days following the date on which the conditional offer was made or such longer period as may be specified in the offer, the conditions specified in the offer in accordance with Article 80(5)(a) have not been fulfilled, the fixed penalty clerk must notify the Chief Constable.

(6) In determining for the purposes of paragraph (4)(b) whether a person convicted of an offence would be liable to disqualification under Article 40, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

(7) In any proceedings a certificate that by a date specified in the certificate payment of a fixed penalty was or was not received by the fixed penalty clerk shall, if the certificate purports to be signed by that clerk, be evidence of the facts stated.

Endorsement where penalty paid

82.—(1) Where—

- (a) in pursuance of a conditional offer a person (referred to in this Article as the “licence holder”) makes payment of the fixed penalty to the fixed penalty clerk and delivers his licence and its counterpart to the clerk, and
- (b) the clerk is not required by paragraph (4) of Article 81 to return the licence and its counterpart to him and did not, before the payment was tendered, notify the Chief Constable under paragraph (5) of that Article,

the clerk must forthwith endorse the relevant particulars on the counterpart of the licence and return it to the licence holder together with the licence.

(2) Subject to paragraph (3), where a cheque tendered in payment is subsequently dishonoured—

- (a) any endorsement made by the fixed penalty clerk under paragraph (1) remains effective, notwithstanding that the licence holder is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and

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- (b) the fixed penalty clerk must, upon the expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the Chief Constable that no payment has been made.
- (3) When proceedings are brought against a licence holder after a notice has been given in pursuance of paragraph (2)(b), the court—
 - (a) must order the removal of the fixed penalty endorsement from the counterpart of the licence, and
 - (b) may, on finding the licence holder guilty, make any competent order of endorsement or disqualification and pass any competent sentence.
- (4) The reference in paragraph (1) to the relevant particulars is to—
 - (a) particulars of the offence, including the date when it was committed, and
 - (b) the number of penalty points to be attributed to the offence.
- (5) The fixed penalty clerk must send notice to the Department—
 - (a) of any endorsement under paragraph (1) and of the particulars endorsed, and
 - (b) of any order under paragraph (3)(a).
- (6) Where the counterpart of a person's licence is endorsed under this Article he shall be treated for the purposes of Articles 16(4), 30, 31 and 50 of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if—
 - (a) he had been convicted of the offence,
 - (b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49 of this Order, and
 - (c) the particulars of the offence endorsed by virtue of paragraph (4)(a) were particulars of his conviction of that offence.
- (7) In relation to any endorsement of the counterpart of a person's licence under this Article—
 - (a) the reference in Article 50(3) of this Order to the order for endorsement, and
 - (b) the references in Article 16(4) to any order made on a person's conviction,are to be read as a reference to the endorsement itself.

[^{F1}(8) Paragraph (1) is subject to Article 4(4)(a) of, and paragraph 7(4)(a) of Schedule 1 to, the Road Traffic (New Drivers) (Northern Ireland) Order 1998; and the fixed penalty clerk need not comply with paragraph (5)(a) in a case where he sends a person's licence and its counterpart to the Department under Article 4(4)(b) of, or paragraph 7(4)(b) of Schedule 1 to, that Order.]

F1 1998 NI 7

VALID FROM 14/12/2010

[^{F2}Endorsement of driving records where penalty paid

82A.—(1) Where—

- (a) in pursuance of a conditional offer issued under Article 80(1) a person who is not the holder of a licence(referred to in this Article as the “alleged offender”) makes payment of the fixed penalty to the fixed penalty clerk , and
- (b) proceedings against the alleged offender for the offence to which the conditional offer relates are excluded by Article 81,

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the fixed penalty clerk must forthwith send to the Department notice of the relevant particulars to be endorsed on the alleged offender's driving record .

- (2) The Department must endorse the relevant particulars on a person's driving record –
 - (a) on receiving notice under paragraph (1), or
 - (b) if, in pursuance of a conditional offer issued under Article 80(1A), a person who is not the holder of a licence(also referred to in this Article as the “alleged offender”) makes payment of the fixed penalty to it and proceedings against the alleged offender are excluded by Article 81.
- (3) Subject to paragraph (4), where a cheque tendered in payment is subsequently dishonoured–
 - (a) any endorsement made by the Department under paragraph (2) remains effective notwithstanding that the alleged offender is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and
 - (b) unless the appropriate person is the Department, the appropriate person must upon expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the person required to be notified that no payment has been made.
- (4) When proceedings are brought against an alleged offender where paragraph (3) applies, the court–
 - (a) must order the removal of the fixed penalty endorsement from the driving record of the alleged offender,
 - (b) may, on finding the alleged offender guilty, make any competent order of endorsement or disqualification and pass any competent sentence, and
 - (c) must send to the Department notice of any order made under sub-paragraph (a) or (b).
- (5) On receiving a notice under paragraph (4)(c), the Department must make any necessary adjustments to the endorsements on the alleged offender's driving record.
- (6) The references in paragraphs (1) and (2) to the relevant particulars are to–
 - (a) particulars of the offence, including the date when it was committed, and
 - (b) the number of penalty points to be attributed to the offence.
- (7) Where a person's driving record is endorsed under this Article, he shall be treated for the purposes of Articles 16(4), 30, 31 and 50A of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if–
 - (a) he had been convicted of the offence,
 - (b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49 of this Order, and
 - (c) the particulars of the offence endorsed by virtue of paragraph (6)(a) were particulars of his conviction of that offence.
- (8) In relation to any endorsement of a person's driving record under this Article, the references in Article 16(4) to any order made on a person's conviction are to be read as references to the endorsement itself.]

F2 Art. 82A inserted (14.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 39(6), Sch. 4 para. 24; S.R. 2010/370, art. 2(2), Sch. Pt. II

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