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STATUTORY INSTRUMENTS

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**2007 No. 916**

**The Road Traffic (Northern Ireland) Order 2007**

**PART II**

**OFFENCES AND ENFORCEMENT**

*Deposits and prohibition on driving*

**Financial penalty deposits**

12.—(1) In the Offenders Order, after Part IV insert—

**“PART IVA**

**FINANCIAL PENALTY DEPOSITS**

**Interpretation of this Part**

**91A.** In this Part—

- “the appropriate amount” has the meaning given by Article 91C(2);
- “the appropriate refund” has the meaning given by Article 91D(10);
- “financial penalty deposit requirement” has the meaning given by Article 91C(1);
- “fixed penalty notice” has the meaning given by Article 58;
- “fixed penalty offence” has the meaning given by Article 57;
- “the prosecution period” has the meaning given by Article 91D(6);
- “the relevant period” has the meaning given by Article 91C(3);
- “the suspended enforcement period” is to be construed in accordance with Article 58(3);
- and
- “vehicle examiner” means an examiner appointed under Article 74 of the Order of 1995.

**Power to impose financial penalty deposit requirement**

**91B.**—(1) A constable or vehicle examiner may impose a financial penalty deposit requirement on a person on any occasion if the conditions in this Article are satisfied.

- (2) The constable or vehicle examiner must have reason to believe—
  - (a) that the person is committing or has on that occasion committed an offence relating to a motor vehicle; and
  - (b) that the person, the offence and the circumstances in which the offence is committed are of a description specified in an order made by the Department.

- (3) The person must be—
  - (a) given written notification that it appears likely that proceedings will be brought against him in respect of the offence; or
  - (b) (if the offence is a fixed penalty offence) either given such notification or given a fixed penalty notice in respect of the offence.
- (4) The person must fail to provide a satisfactory address; and for this purpose “a satisfactory address” is an address in the United Kingdom at which the constable or vehicle examiner considers it likely that it would be possible to find the person whenever necessary to do so in connection with the proceedings or fixed penalty notice.
- (5) The person who is to impose the financial penalty deposit requirement—
  - (a) if a constable, must be in uniform; and
  - (b) if a vehicle examiner, must produce his authority.

#### **Financial penalty deposit requirement**

- 91C.**—(1) For the purposes of this Part a financial penalty deposit requirement is a requirement to make a payment of the appropriate amount to the Department—
- (a) in a manner specified in an order made by it; and
  - (b) either immediately or within the relevant period.
- (2) In this Part “the appropriate amount”, in relation to an offence and a person, is an amount specified in relation to the offence in an order made by the Department; and different amounts may be so specified by reference to whether the person is given notification that it appears likely that proceedings will be brought against him or given a fixed penalty notice.
- (3) In this Part “the relevant period” means—
- (a) if the person was given a fixed penalty notice and proceedings are not brought in respect of the offence by virtue of this Order before the end of the suspended enforcement period, the suspended enforcement period; and
  - (b) otherwise, the period ending with the person being charged with the offence.

#### **Making of payment in compliance with requirement**

- 91D.**—(1) This Article applies where a person on whom a financial penalty deposit requirement is imposed in respect of an offence makes a payment of the appropriate amount in accordance with Article 91C(1) (and any order made under it).
- (2) On payment by the person of the appropriate amount the person by whom the payment is received must issue him with a written receipt for the payment specifying the effect of the following provisions of this Article.
- (3) In a case where—
- (a) a fixed penalty notice relating to the offence has been given to the person;
  - (b) the person does not give notice requesting a hearing in respect of the offence before the end of the relevant period in the manner specified in the fixed penalty notice; and
  - (c) proceedings are not brought in respect of the offence by virtue of this Order;
- paragraph (4) applies.
- (4) Where this paragraph applies, the Department must—
- (a) apply so much of the payment as does not exceed the amount of the fixed penalty in or towards payment of the fixed penalty; and

- (b) take the appropriate steps to make any appropriate refund to the person.
  - (5) In any other case—
    - (a) if the person is informed that he is not to be prosecuted for the offence, is acquitted of the offence or is convicted but not fined in respect of it, or the prosecution period comes to an end without a prosecution having been commenced against him in respect of it, paragraph (7) applies; and
    - (b) if a fine is imposed on the person in respect of the offence (otherwise than as a result of a conviction obtained on a prosecution commenced after the end of the prosecution period), paragraph (8) applies.
  - (6) In this Part, “the prosecution period” means the period of 12 months beginning with the imposition of the financial penalty deposit requirement or, if shorter, any period after which no prosecution may be commenced in respect of the offence.
  - (7) Where this paragraph applies, the Department must take the appropriate steps to make the appropriate refund to the person.
  - (8) Where this paragraph applies, the Department must—
    - (a) apply so much of the payment as does not exceed the amount of the fine in or towards payment of the fine; and
    - (b) take the appropriate steps to make any appropriate refund to the person.
  - (9) Where the Department is required by this Article to take the appropriate steps to make an appropriate refund, it must take such steps to trace the person and to make the refund to him, by such means, as are specified in an order made by the Department.
  - (10) In this Part “the appropriate refund”, in any case, is a refund of—
    - (a) where paragraph (4) applies, so much of the payment as exceeds the amount of the fixed penalty;
    - (b) where paragraph (7) applies, the amount of the payment; and
    - (c) where paragraph (8) applies, so much of the amount of the payment as exceeds the amount of the fine;
- together with interest calculated in accordance with provision made by order made by the Department of Finance and Personnel.

### **Prohibition on driving on failure to make payment**

- 91E.**—(1) This Article applies where a person on whom a financial penalty deposit requirement is imposed does not make an immediate payment of the appropriate amount in accordance with Article 91C(1) (and any order made under it).
- (2) The constable or vehicle examiner by whom the requirement was imposed may prohibit the driving on a road of any vehicle of which the person was in charge at the time of the offence by giving to the person notice in writing of the prohibition.
- (3) The prohibition—
  - (a) shall come into force as soon as the notice is given; and
  - (b) shall continue in force until the happening of whichever of the events in paragraph (4) occurs first.
- (4) Those events are—
  - (a) the person making a payment of the appropriate amount in accordance with Article 91C(1) (and any order made under it) at any time during the relevant period;

- (b) (where a fixed penalty notice was given to the person in respect of the offence) payment of the fixed penalty;
- (c) the person being convicted or acquitted of the offence;
- (d) the person being informed that he is not to be prosecuted for the offence; and
- (e) the coming to an end of the prosecution period.

(5) A constable or vehicle examiner may by direction in writing require the person to remove the vehicle to which the prohibition relates (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition does not apply to the removal of the vehicle (or trailer) in accordance with the direction.

- (6) A person who—
  - (a) drives a vehicle in contravention of a prohibition under this Article;
  - (b) causes or permits a vehicle to be driven in contravention of such a prohibition; or
  - (c) fails to comply within a reasonable time with a direction under paragraph (5),

is guilty of an offence.

(7) The Department may by order provide for exceptions from paragraph (6).

(8) Where a constable in uniform has reasonable grounds for suspecting that an offence under paragraph (6) has been committed or attempted, or is being committed or attempted, he may arrest the relevant person without warrant.

(9) In this Article “the relevant person” means any person whom the constable has reasonable grounds to suspect of having committed or having attempted to commit the offence or of being in the course of committing or attempting to commit it.

**Orders about financial penalty deposits**

**91F.**—(1) Before making an order under any provision of this Part, the Department or the Department of Finance and Personnel (as the case may be) shall consult with such representative organisations as it thinks fit.

(2) An order under any provision of this Part shall be subject to negative resolution.”.

(2) In Part I of Schedule 1 to the Offenders Order (prosecution and punishment of offences) after the entry relating to offences under Article 72 of that Order insert—

“Article 91E(6)	Driving, etc. vehicle in contravention of prohibition for failure to pay financial penalty deposit, etc.	Summarily.	Level 5 on the standard scale.”.
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