

2012 No. 17

ROAD TRAFFIC AND VEHICLES

The Road Traffic (Financial Penalty Deposit) Order (Northern Ireland) 2012

Made - - - - - *26th January 2012*

Coming into operation - - - - - *23rd April 2012*

The Department of the Environment makes the following Order in exercise of the powers conferred by Articles 91B(2)(b), 91C(1)(a) and 91D(9) of the Road Traffic Offenders (Northern Ireland) Order 1996(a).

The Department has consulted with such representative organisations as it thinks fit in accordance with Article 91F(1) of that Order.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Road Traffic (Financial Penalty Deposit) Order (Northern Ireland) 2012 and shall come into operation on 23rd April 2012.

(2) In this Order—

“credit card” means a card or similar thing issued by any person, use of which enables the holder to defer the payment by the holder of the charge for the appropriate amount;

“debit card” means a card or similar thing issued by any person, use of which by the holder causes the charge for the appropriate amount to be paid by the electronic transfer of funds from any current account of the holder at a bank or other institution providing banking services; and

“the Order” means the Road Traffic Offenders (Northern Ireland) Order 1996.

The specified person

2. The specified person for the purposes of Article 91B(2)(b) of the Order is the person in charge of the motor vehicle at the time at which the constable or vehicle examiner has reason to believe that a person is committing, or has on that occasion committed an offence specified in this Order relating to that vehicle.

(a) S.I. 1996/1320 (N.I. 10); see Article 2(2) for the definition of “Department”; this definition was inserted by paragraph 15(a) of Schedule 7 to S.I. 2007/ 916 (N.I. 10). Part IVA (which includes Articles 91A-91F) is inserted by Article 12 of S.I. 2007/916 (N.I. 10)

The specified offences

3. The specified offences for the purposes of Article 91B(2)(b) of the Order are set out in column one of the tables in the Schedule (the general nature of the offence is also indicated in column two).

The specified circumstances

4.—(1) The specified circumstances for the purposes of Article 91B(2)(b) of the Order are that the offence is being committed, or has on that occasion been committed, on a road or other public place.

(2) In this Article, “road” has the meaning given in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995(a).

Manner of payment

5. Payment of the appropriate amount shall be made—

- (a) in person to the constable or vehicle examiner, by cash or credit or debit card, if the vehicle examiner or constable has the necessary means to accept payment in that manner;
- (b) by telephone by credit or debit card, to the number on the document referred to in Article 91B(3) of the Order, if a number is so given; or
- (c) by any other means specified on the document referred to in Article 91B(3) of the Order.

Appropriate steps to make an appropriate refund

6.—(1) The appropriate steps to trace the person and to make an appropriate refund, for the purposes of Article 91D(9) of the Order are set out in paragraphs (2) and (3).

(2) The Department shall—

- (a) attempt to contact the person (on whom the financial penalty requirement was imposed) at any address given in any response or in any document provided to a vehicle examiner or constable; but
- (b) if the attempt to contact that person is unsuccessful, and if a person other than that person made the payment, attempt to contact that other person, at any address or contact details given when the person made the payment.

(3) The means by which an appropriate refund can be made by the Department are—

- (a) by cheque;
- (b) by refund to any credit or debit card used to make the financial penalty payment; or
- (c) by any other means agreed with the person to whom the appropriate refund is to be made.

Sealed with the Official Seal of the Department of the Environment on 26th January 2012



Deirdre Kenny
A senior officer of the
Department of the Environment

(a) S.I. 1995/2994 (N.I. 18)

SCHEDULE

Article 3

Table 1

Transport Act (Northern Ireland) 1967(a)

<i>Provision creating offence</i>	<i>General nature of offence</i>
Section 4(4)(b)	Using motor vehicle on road except under Road Service licence
Section 17(3)(c)	Using goods vehicle on road for carriage of goods except under vehicle licence
Section 34(d)	Forgery and misuse of documents

Table 2

Road Traffic (Northern Ireland) Order 1981(e)

<i>Provision creating offence</i>	<i>General nature of offence</i>
Article 3(1)	Driving a vehicle on a road if not the holder of a licence authorising to drive a motor vehicle of that class
Article 11A(f)	Driving after refusal or revocation of licence
Article 31E(1)(g)	Using, causing or permitting to be used a motor vehicle without required certificate being in force showing that the vehicle complies with type approval requirements applicable to it
Article 56(3)	Contravention of any requirement of the domestic drivers' hours code by drivers of goods vehicles
Article 60(2)(h) and Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996(i)	Using a vehicle without certificate of initial fitness (or equivalent)
Article 63(j)	Contravention of any requirement of the domestic drivers' hours code by drivers of public service vehicles
Article 72(1)(k)	Failing to comply with conditions of LGV or PCV driver's licence
Article 72(2)	Causing or permitting a person under 21 to drive LGV or PCV in contravention of conditions of licence
Article 81(1)	Contravention of any requirement of applicable Community rules as to periods of driving
Articles 84(1)(l) and 86(1)(a)	Driving a foreign goods vehicle or foreign public service vehicle in contravention of a prohibition

(a) 1967 c.37 (N.I.)

(b) Section 4(4) was amended by SRO (N.I.) 1972/359 & S.I. 1984/703 (N.I. 3)

(c) Section 17(3) was amended by S.I. 1984/703 (N.I. 3)

(d) Section 34 was amended by 1975 c.46, S.R. 1977 No. 327, S.R. 1981 No. 2, 1981 c. 45, S.I. 1984/703 (N.I. 3), S.R. 1987 No. 187, S.R. 1987 No. 383, S.R. 2003 No. 217 and S.R. 2005 No. 212

(e) S.I. 1981/154 (N.I. 1)

(f) Article 11A was inserted by Article 33(3) of S.I. 2007/916 (N.I. 10)

(g) Article 31E(1) was inserted by Article 3 of S.I. 1985/755 (N.I. 6)

(h) Article 60(2) was amended by S.I. 1991/197 (N.I. 3)

(i) S.I. 1996/1320 (N.I. 10)

(j) Article 63 was amended by S.R. 1981 No. 199

(k) Article 72 was amended by S.R. 1994 No. 365 and SR 1996 No. 426

(l) Article 84(1) was amended by S.R. 2003 No. 515

Article 86(1)	Failing to comply with prohibition or direction in relation to driving vehicle
Article 90(4)	Using a motor vehicle while uninsured or unsecured against third party risks
Article 154(1)	Driving with uncorrected defective eyesight
Article 168A(1)(c)(a)	Driving while disqualified
Article 175(2)	Failing to stop after accident and give particulars or report accident
Article 177(1)(b)	Failing to give correct name and address and that of the vehicle owner and any other information concerning the vehicle such as names and addresses of any passengers
Article 180(1)(c)	Failing to stop a mechanically propelled vehicle or cycle when required
Article 180(4)(d)	Failing to produce driving licence, certificate of insurance, test certificate or goods vehicle test certificate

Table 3

Roads (Northern Ireland) Order 1993(e)

<i>Provision creating offence</i>	<i>General nature of offence</i>
Article 20(4)	Wrongful use of a special road

Table 4

Vehicle Excise and Registration Act 1994(f)

<i>Provision creating offence</i>	<i>General nature of offence</i>
Section 42(1)	Driving or keeping a vehicle without required registration mark
Section 43(1)	Driving or keeping a vehicle with registration mark obscured etc.
Section 44(1)	Forgery and fraudulent use of a registration mark

Table 5

Disability Discrimination Act 1995(g)

<i>Provision creating offence</i>	<i>General nature of offence</i>
Section 40(3)	Failing to comply with PSV accessibility regulations made under section 40(1)
Section 41(3)	Using a regulated public service vehicle on the road where no accessibility certificate or approval certificate has been issued

(a) Article 168A(c) was inserted by Article 37 of S.I. 2007/916 (N.I. 10)

(b) Article 177(1) was amended by S.I. 1996/1320 (N.I. 10)

(c) Article 180(1) was amended by S.I. 1995/2994 (N.I. 18)

(d) Article 180(4) was amended by S.I. 1995/2994 (N.I. 18); S.R. 1989 No. 238; S.R. 1994 No. 365 and S.I. 1996/1320 (N.I. 10)

(e) S.I. 1993/3160 (N.I. 15)

(f) 1994 c.22

(g) 1995 c.50

Table 6**Road Traffic (Northern Ireland) Order 1995(a)**

<i>Provision creating offence</i>	<i>General nature of offence</i>
Article 12	Careless and inconsiderate driving
Article 15(1)	Driving or attempting to drive when unfit to drive through drink or drugs
Article 15(2)	Being in charge of a mechanically propelled vehicle when unfit to drive through drink or drugs
Article 16(1)(a)	Driving or attempting to drive with excess alcohol in breath, blood or urine
Article 16(1)(b)	Being in charge of a motor vehicle with excess alcohol in breath, blood or urine
Article 23(3)	Breach of regulations requiring wearing of seat belts
Article 24(2)(b)	Driving a motor vehicle where a child under the age of 14 years is in the front not wearing a seat belt or with a child in a rear-facing child restraint in the front seat with an active air bag
Article 24(5)	Driving a motor vehicle where a child under the age of 14 years is in the rear not wearing a seat belt
Article 27(3)	Driving or riding motor cycles in contravention of regulations requiring wearing of protective headgear
Article 29(3)	Contravention of regulations with respect to use of head-worn appliances (eye protectors) on motor cycles
Article 30(1)	Prohibition of parking of heavy commercial vehicles on the verge of a road, land between two carriageways or on a footway
Article 32(c)	Leaving vehicle in dangerous position
Article 47(3)	Unauthorised motor vehicle trial on public path or other public right of way
Article 48(1)	Driving mechanically propelled vehicles elsewhere than on roads
Article 49(1)(d)	Failing to comply with traffic directions given by a constable in uniform carrying out functions under the Road Traffic Orders
Article 49(2)	Failing to comply with traffic directions given by a constable in uniform where a traffic survey is being carried out
Article 50(1)(e)	Failing to comply with traffic signs
Article 54	Using, or causing or permitting another to use a motor vehicle or trailer on a road when in dangerous condition

(a) S.I. 1995/2994 (N.I. 18)

(b) Article 24 was amended by S.R. 2007 No.7

(c) Article 32 was amended by S.I. 1996/1320 (N.I. 10)

(d) Article 49(1) was amended by S.I. 1997/276 (N.I. 2)

(e) Article 50(1) was amended by S.I. 1997/276 (N.I. 2) and SR 2001 No. 229

Article 56	Breach of requirement as to brakes, steering-gear or tyres
Article 56A(a)	Breach of requirements as to control of vehicle, mobile telephones or other hand-held interactive communication device
Article 57(1)	Breach of requirement as to weight: goods and passenger vehicles
Article 58	Breach of other construction and use requirements
Article 63(1)	Using, or causing or permitting to be used, a motor vehicle without required test certificate being in force
Article 69(3)	Using a goods vehicle or causing or permitting it to be used where the Department is required to be notified under Article 65 of alteration to it or its equipment but has not been notified
Article 70(2)	Using goods vehicle with unauthorised weights as well as unauthorised weights marked on it
Article 75(10)	Obstructing testing of vehicle by examiner on road or other public place or failing to comply with requirements of Article 75 of the Road Traffic (Northern Ireland) Order 1995
Article 76(3)	Obstructing inspection of vehicle by examiner
Article 76(5)	Failing to comply with requirement to take vehicle for inspection
Article 80(1)	Driving a vehicle in contravention of prohibition on driving it as being unfit for service, or failing to comply with direction to remove a vehicle found overloaded
Article 84(1)	Fitting of defective or unsuitable vehicle parts
Article 86(3)	Failing to comply with requirement about weighing motor vehicle or obstructing authorised person

Table 7

Road Traffic Offenders (Northern Ireland) Order 1996(b)

<i>Provision creating offence</i>	<i>General nature of offence</i>
Article 67(2)	Removing or interfering with fixed penalty notice fixed to vehicle
Article 91E(6)(c)	Driving a vehicle, causing or permitting a vehicle to be driven in contravention of a prohibition on driving on failure to make a financial penalty deposit payment

(a) Article 56A was inserted by Article 6 of S.I. 2007/916 (N.I. 10)

(b) S.I. 1996/1320 (N.I. 10)

(c) Article 91E(6) is inserted by Article 12 of S.I. 2007/916 (N.I. 10)

Table 8**Road Traffic Regulation (Northern Ireland) Order 1997(a)**

<i>Provision creating offence</i>	<i>General nature of offence</i>
Article 4(5)	Using a vehicle in contravention of a traffic regulation order
Article 5(9)	Breach of experimental traffic control scheme
Article 7(9)	Using a vehicle in contravention of temporary prohibition or restriction of traffic in case of execution of works
Article 43(1)	Exceeding speed limit
Article 59(4)	Breach of pedestrian crossing regulations

Table 9**European Communities (International Passenger Services) Regulations (Northern Ireland) 1987(b)**

<i>Provision creating offence</i>	<i>General nature of offence</i>
Regulation 19(1)	Using vehicle for Community regulated carriage of passengers otherwise than in accordance with the Council Regulations or the Commission Regulation
Regulation 19(2)	Using vehicle for ASOR regulated or Community regulated carriage by road without passenger waybill

Table 10**Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996(c)**

<i>Provision creating offence</i>	<i>General nature of offence</i>
Regulation 3(1)	Using a vehicle in contravention of any requirement of applicable Community rules as to periods of driving
Regulation 5(1)	Forging, altering or using with intent to deceive any seal on recording equipment
Regulation 6A	Contravention of requirement of applicable Community rules as to manual records or documents.
Regulation 7(4) and 7D	Failing to comply with requirements relating to inspection of records or obstructing a vehicle examiner
Regulation 7(5)	Making a false record or entry on a record sheet or alters or causes to be altered any such record or entry

(a) S.I. 1997/276 (N.I. 2)

(b) S.R. 1987 No. 383

(c) S.R. 1996 No. 145

Regulation 7D(1)(a)	Failing to comply with requirements relating to inspection of recording equipment or records (whether electronic or hard copy) made by or stored on recording equipment
Regulation 7E(1)	Making or causing or permitting a false record or entry
Regulation 7E(3)	Recording or causing or permitting to be recorded false data on recording equipment or on a driver card
Regulation 7E(6)	Producing, supplying or installing any device to interfere with recording equipment or falsification, alteration, destruction or suppression of data

Table 11

Road Service Licensing (Community Licences) Regulations (Northern Ireland) 2002(b)

<i>Provision creating offence</i>	<i>General nature of offence</i>
Regulation 2	Using a public service vehicle without Community licence
Regulation 6	Failing to comply with conditions governing use of Community authorisation

Table 12

Road Transport (Passenger Vehicles Cabotage) Regulations (Northern Ireland) 2005(c)

<i>Provision creating offence</i>	<i>General nature of offence</i>
Regulation 2(2)	Using a vehicle for UK cabotage operations without Community licence
Regulation 3(1)	Using a vehicle for UK cabotage operations without control document
Regulation 6(1)	Failing to produce Community licence when requested
Regulation 6(3)	Failing to produce control document when requested

Table 13

The Vehicle Drivers (Certificate of Professional Competence) Regulations 2007(d)

<i>Provision creating offence</i>	<i>General nature of offence</i>
Regulation 10(1)	Driving on road without completing appropriate initial Certificate of Professional Competence (CPC) test, or driving on road if more than five years have elapsed since obtaining relevant CPC
Regulation 10(2)	Causing or permitting another person to drive in breach of regulation 10(1)

(a) Regulations 7A to 7F were inserted by S.R. 2006 No. 274

(b) S.R. 2002 No. 116

(c) S.R. 2005 No. 212

(d) S.I. 2007/605; relevant amending instrument is S.I. 2008/1965

Regulation 11(1)	Failing to carry evidence of initial CPC
Regulation 11(3)	Failing to carry evidence of periodic CPC
Regulation 11(5)	Failing to carry National Vocational Training Certificate in the vehicle in which the person is driving
Regulation 11(7)	Failing to produce evidence of CPC or National Vocational Training Certificate when required
Regulation 13(1)	Forgery, alteration of certain documents

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies certain matters for the purpose of Part IVA of the Road Traffic Offenders (Northern Ireland) Order 1996. That Part, which is inserted by Article 12 of the Road Traffic (Northern Ireland) Order 2007, provides that constables or vehicle examiners may impose a financial penalty deposit requirement on a person if the constable or vehicle examiner has reason to believe that the person is committing or has on that occasion committed an offence relating to a motor vehicle and the person, offence and circumstances in which the offence is committed are of a description specified in an order made by the Department of the Environment (“the Department”) (new Article 91B).

Articles 2 to 4, with the Schedule to this Order, specify the person, offences and circumstances in which a financial penalty deposit requirement can be imposed. Article 5 specifies the manner of payment. Article 6 sets out the steps to be followed by the Department where making an appropriate refund in accordance with Part IVA of the Road Traffic Offenders (Northern Ireland) Order 1996.

The Department of the Environment has produced an Explanatory Memorandum and a Regulatory Impact Assessment, showing the effect these Regulations will have on costs for the business and voluntary sectors. The documents are available from the Road Safety and Vehicle Regulation Division, Department of the Environment, Clarence Court, 10-18 Adelaide Street, Belfast BT2 8GB or viewed online at <http://www.legislation.gov.uk/nisr>

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