

EXPLANATORY MEMORANDUM TO

The Road Traffic (Fixed Penalty) (Offences) (Amendment No.2) Order (Northern Ireland) 2013

S.R. 2013 No. 196

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1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rules (details above) which are laid before the Northern Ireland Assembly.

2. Purpose

- 2.1. The purpose of the first Order is to amend Schedule 1 to the Road Traffic (Fixed Penalty) (Offences) Order (Northern Ireland) 1997 by specifying additional offences to be fixed penalty offences for the purposes of the Road Traffic Offenders (Northern Ireland) Order 1996.
- 2.2. The purpose of the second Order is to prescribe the amount of fixed penalties for certain offences by amending the Road Traffic (Fixed Penalty) Order (Northern Ireland) 2007 (“the Principal Order”). It amends the Principal Order to provide for new fixed penalty offences which have been specified as such by Article 2 of the Road Traffic (Fixed Penalty) (Offences) (Amendment No.2) Order (Northern Ireland) 2013.

3. Background

- 3.1. From 1st September 2012 it has been a requirement that any person providing taxi services either holds a taxi operator licence or be an affiliated driver on an operator licence. Associated with the requirement to be a taxi operator are a number of offences for which an operator or someone without an operator licence could be taken to court.
- 3.2. The Driver and Vehicle Agency (DVA) and the Police Service for Northern Ireland will have discretion to offer someone who has committed one of the related offences a fixed penalty rather than refer the offender to the Public Prosecution Service for court action. As with other taxi fixed penalty offences DVA will continue, where appropriate, to offer advice and a warning in the first instance. Enforcement officers will also be able to take a case directly to prosecution, rather than offer a fixed penalty (this will generally be in serious cases or cases of repeat offenders).

4. Consultation

- 4.1. Consultation documents were issued to interested parties between 21st January and 22nd March 2013. Overall, respondents were in support of the introduction of fixed penalties. However, over 99% of respondents thought that the proposed levels of fines were not set at an appropriate level and

were therefore not a robust deterrent. The majority of respondents urged the Department to re-examine proposed penalty levels and come up with a more suitable and more comprehensive list of offences and penalties.

- 4.2. Less than 1% of respondents were in favour of the level of proposed fixed penalties or wanted the levels to be even less. Respondents in favour of the proposed penalty levels felt that overall regulation of the taxi industry was costly.
- 4.3. As a result of the concerns raised in the consultation, the Department revised some of the proposed levels of fines principally relating to those offences of operating without a taxi operator licence, PSV licence or taxi driver's licence.

5. Equality Impact

- 5.1. There are no Human Rights, Equality, Environmental, Rural or Financial Issues associated with the proposed legislation.

6. Regulatory Impact

- 6.1. A regulatory impact assessment was completed when the primary powers were taken, therefore it was deemed unnecessary to undertake a full regulatory impact assessment for these Statutory Rules.

7. Financial Implications

- 7.1. Taxi Operator Licensing is administered by DVA. DVA and the Police Service for Northern Ireland will have the authority to offer someone who has committed one of the related offences a fixed penalty. This will not affect anyone who complies with the legislation.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The proposed Regulations are not incompatible with Section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. Not applicable.

11. Additional Information

- 11.1. Not applicable.