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*Number 12 of 2002*

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**ROAD TRAFFIC ACT, 2002**

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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Endorsement of penalty points.
3. Disqualification by reason of penalty points.
4. Period of endorsement of penalty points.
5. Notification to licence holder of endorsement of penalty points.
6. Interruption of period of endorsement of penalty points or disqualifications under *section 3*.
7. The appropriate date.
8. Endorsement of certain convictions and disqualifications on entries.
9. Disqualification pursuant to European Convention on Driving Disqualifications.
10. Obligation to provide preliminary breath specimen.
11. Fixed charge offences.
12. Amendment of Act of 1975.
13. Protection of environment.
14. Performance of certain functions.
15. Bye-laws in relation to stands for taxis.
16. Stopping places and stands for buses.
17. Amendment of section 56 of Principal Act.
18. Amendment of section 40 of Principal Act.
19. Amendment of section 18 of Act of 1968.
20. Amendment of section 35 of Act of 1994.
21. Evidence in relation to certain offences.
22. Inspection of driving licences of persons charged with certain offences.

[No. 12.]                      *Road Traffic Act, 2002.*                      [2002.]

Section

23. Increase of certain penalties.
24. Regulations.
25. Repeals and amendment of sections 97(1)(b), 102, 107, 110, 111, 115, 125 and 126 of Principal Act.
26. Short title, commencement, construction and collective citation.

## FIRST SCHEDULE

### PENALTY POINTS

#### PART 1

##### CONTRAVENTION OF CERTAIN STATUTORY PROVISIONS

#### PART 2

##### CONTRAVENTION OF CERTAIN PROVISIONS OF ROAD TRAFFIC (CONSTRUCTION, EQUIPMENT AND USE OF VEHICLES) REGULATIONS, 1963 TO 2002

#### PART 3

##### CONTRAVENTION OF CERTAIN PROVISIONS OF ROAD TRAFFIC (LIGHTING OF VEHICLES) REGULATIONS, 1963

#### PART 4

##### CONTRAVENTION OF CERTAIN PROVISIONS OF ROAD TRAFFIC (TRAFFIC AND PARKING) REGULATIONS, 1997

#### PART 5

##### CONTRAVENTION OF ARTICLE 6 OF ROAD TRAFFIC (LICENSING OF DRIVERS) REGULATIONS, 1999

## SECOND SCHEDULE

CONVENTION DRAWN UP ON THE BASIS OF ARTICLE K.3 OF THE TREATY  
ON EUROPEAN UNION ON DRIVING DISQUALIFICATIONS DONE AT BRUS-  
SELS ON THE 17TH DAY OF JUNE, 1998

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### ACTS REFERRED TO

Civil Service Commissioners Act, 1956	1956, No. 45
Civil Service Regulation Act, 1956	1956, No. 46
Environmental Protection Agency Act, 1992	1992, No. 7
Finance Act, 1976	1976, No. 16
Finance Act, 1993	1993, No. 13
Finance (Excise Duties) (Vehicles) Act, 1952	1952, No. 24
Interpretation Act, 1937	1937, No. 38
Local Authorities (Traffic Wardens) Act, 1975	1975, No. 14
Local Government Act, 1941	1941, No. 23
Petty Sessions (Ireland) Act, 1851	1851, c. 93
Road Traffic Act, 1961	1961, No. 24
Road Traffic Act, 1968	1968, No. 25
Road Traffic Act, 1994	1994, No. 23
Road Traffic Act, 1995	1995, No. 7
Road Traffic Acts, 1961 to 1994	
Road Traffic Acts, 1961 to 1995	
Road Traffic (Amendment) Act, 1984	1984, No. 16
Roads Act, 1920	1920, c. 72
Roads Act, 1993	1993, No. 14



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*Number 12 of 2002*

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**ROAD TRAFFIC ACT, 2002**

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AN ACT TO AMEND AND EXTEND THE ROAD TRAFFIC ACTS, 1961 to 1995. [10th April, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, save where the context otherwise requires— Interpretation.

“the Act of 1968” means the Road Traffic Act, 1968;

“the Act of 1975” means the Local Authorities (Traffic Wardens) Act, 1975;

“the Act of 1994” means the Road Traffic Act, 1994;

“the Acts” means the Road Traffic Acts, 1961 to 1995;

“appeal” includes an appeal by way of case stated;

“appropriate date” shall be construed in accordance with *section 7*;

“entry”, in relation to a person, means the entry in the licence record relating to the person;

“licence” means a driving licence or a provisional licence under Part III of the Principal Act;

“licence record” means the record jointly established and maintained by the Minister and all the licensing authorities under *section 60(2)* of the Finance Act, 1993, in relation to licences;

“penalty point” means a point specified in *column (4) or (5)* of the *First Schedule*;

“penalty point offence” means an offence specified in *column (2)* of the *First Schedule* committed after the commencement of *section 2*;

“the Principal Act” means the Road Traffic Act, 1961.

(2) A word or expression that is used in this Act and is also used in the Principal Act has in this Act, unless the context otherwise requires, the same meaning as it has in the Principal Act.

S.1

- (3) In this Act—
- (a) a reference to a section or a Schedule is a reference to a section of, or a Schedule to, this Act unless it is indicated that reference to some other provision is intended,
  - (b) a reference to a subsection or paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended, and
  - (c) a reference to any enactment or instrument made under statute shall be construed as a reference to that enactment or instrument as amended, adapted or extended by or under any subsequent enactment or instrument made under statute.

Endorsement of penalty points.

**2.—**(1) Where a person makes a payment under section 103 (as inserted by this Act) of the Principal Act in respect of an alleged penalty point offence (other than such an offence specified at *reference number 2, 3, 8, 9, 10, 11, 12 or 14 in column (2) of Part 1 of the First Schedule*), the number of penalty points specified in *column (4) of that Schedule* opposite the mention of the offence in the said *column (2)* shall, subject to and in accordance with the provisions of this Act, be endorsed on the entry relating to the person in respect of the alleged offence.

(2) Where a person is convicted of a penalty point offence, the number of penalty points specified in *column (5) of the First Schedule* opposite the mention of the offence in *column (2) of that Schedule* shall, subject to and in accordance with the provisions of this Act, be endorsed on the entry relating to the person in respect of the offence.

- (3) (a) Where a person, whether on the same occasion or not—
- (i) makes 2 or more payments referred to in *subsection (1)* in respect of alleged penalty point offences committed on the same occasion, or
  - (ii) is convicted of 2 or more penalty point offences committed on the same occasion,
- penalty points in respect of one only of the alleged offences or offences, determined, where appropriate, in accordance with *subsection (4)*, shall be endorsed on the entry relating to the person.
- (b) Where a person, whether on the same occasion or not, makes one or more payments referred to in *subsection (1)* and is convicted of one or more penalty point offences and the alleged penalty point offences concerned and the penalty point offences were committed on the same occasion, penalty points in respect only of any one of the alleged offences and offences, determined in accordance with *subsection (4)*, shall be endorsed on the entry relating to the person.

- (4) In a case referred to in *subsection (3)*—
- (a) if the number of penalty points falling (but for that subsection) to be endorsed on the entry concerned in

[2002.]

*Road Traffic Act, 2002.*

[No. 12.]

respect of one of the alleged offences, or offences, concerned differs from that or those in respect of the other or others, the number which is the bigger or biggest shall, subject to *paragraph (b)*, be endorsed on the entry, and

S.2

(b) if 2 or more of the numbers aforesaid are bigger than the other or others, or are the biggest of the numbers, and are equal, one only of them shall be so endorsed.

(5) Upon the making of a payment referred to in *subsection (1)* to a member of the Garda Síochána, the Commissioner shall, as soon as may be after the payment, cause the Minister to be notified of the payment and, thereupon, subject to *subsections (3), (7) and (8)*, the Minister shall cause the appropriate number of penalty points to be endorsed on the entry concerned.

(6) (a) When a person is convicted of a penalty point offence, the registrar or clerk of the court concerned or such other member of the staff of the Courts Service as that Service may designate shall notify the Minister of the conviction—

(i) in case an appeal is brought against the conviction and it is determined against the person, as soon as may be after such determination,

(ii) in case an appeal is not brought against the conviction, as soon as may be after the expiration of the ordinary time for bringing such an appeal.

(b) Where the conviction of a person of a penalty point offence is reversed on appeal, it shall not be necessary to notify the Minister of the conviction.

(c) Upon the receipt by the Minister of a notification under *paragraph (a)*, the Minister shall, subject to *subsections (3), (7) and (8)*, cause the appropriate number of penalty points to be endorsed on the entry concerned.

(7) If an entry in relation to a person does not exist at a time when, if there were such an entry, penalty points would fall to be endorsed on it, pursuant to *subsection (5)* or *(6)(c)*, and, subsequently, such an entry is made, thereupon, the points shall be so endorsed.

(8) Where, upon conviction of a person of a penalty point offence, an ancillary disqualification order is made in respect of the person, penalty points in respect of the offence shall not be endorsed on the entry of the person.

(9) The particulars stated in *column (3)* of the *First Schedule* are inserted solely to facilitate reference to and identification of the provisions specified in *column (2)* of that Schedule and, accordingly, nothing contained in the said *column (3)* shall affect the construction or limit or control the operation of this section or that Schedule.

3.—(1) When penalty points are endorsed on the entry of a person and, in consequence, the total number of penalty points standing so endorsed equals or exceeds 12, the person shall stand disqualified for a period of 6 months beginning on the appropriate date for holding a licence and a licence held by him or her at the beginning of the period shall stand suspended correspondingly.

Disqualification by reason of penalty points.

S.3

(2) At the end of a period of disqualification pursuant to *subsection (1)*, the Minister—

- (a) shall cause to be removed from the entry concerned penalty points standing endorsed on it on the date of the notice under *section 5* relating to the disqualification, and
- (b) shall cause a notice to be given or sent, by post or otherwise, to the person to whom the entry relates—
  - (i) of the ending of the period and its date, and
  - (ii) of the removal and particulars of the penalty points the subject of the removal.

Period of endorsement of penalty points.

**4.**—Penalty points endorsed on the entry of a person shall, subject to *section 3(2)*, remain on the entry for a period of 3 years beginning on the appropriate date, and the Minister shall—

- (a) cause the penalty points to be removed from the entry at the end of that period, and
- (b) cause a notice to be given or sent, by post or otherwise, to the person—
  - (i) of the ending of the period and its date, and
  - (ii) of the removal and particulars of the penalty points the subject of the removal.

Notification to licence holder of endorsement of penalty points.

**5.**—(1) When penalty points are endorsed on the entry of a person, the Minister shall, as soon as may be thereafter, cause a notice to be given or sent, by post or otherwise, to the person—

- (a) to the effect that the number of penalty points specified in the notice has been endorsed on the entry relating to the person following—
  - (i) the making by the person of a payment referred to in *section 2(1)*, or
  - (ii) the conviction of the person of a penalty point offence,

and that, subject to *section 3(2)*, they will remain on the entry for a period of 3 years beginning on the appropriate date, and

- (b) specifying the total number of penalty points that, following the endorsement aforesaid, stand so endorsed and, if that number equals or exceeds 12, specifying that the person will be disqualified under *section 3* for holding a licence for a period of 6 months beginning on the appropriate date and directing him or her to submit the licence held by him or her to the licensing authority that granted the licence not later than 14 days from that date.

(2) When a notice is given or sent to a person under *subsection (1)*, the Minister shall cause particulars of the notice, including its date, to be entered on the entry relating to the person.

(3) A person who does not comply with a direction under *paragraph (b)* of *subsection (1)* in a notice under that subsection shall be guilty of an offence. S.5

6.—Where, during the period of 3 years for which penalty points stand endorsed on the entry of a person or the period of 6 months for which a person stands disqualified pursuant to *section 3* for holding a licence, the person— Interruption of period of endorsement of penalty points or disqualifications under *section 3*.

(a) becomes disqualified pursuant to Part III of the Principal Act or *section 9* for holding a licence, or

(b) ceases to be the holder of a licence,

no part of the period of the disqualification referred to in *paragraph (a)* or the cesser referred to in *paragraph (b)*, as the case may be, shall be reckoned as part of the period of 3 years or part of the period of 6 months, and the date of the ending of the two latter periods shall be determined accordingly.

7.—(1) In this Act, subject to the provisions of this section, the appropriate date, in relation to penalty points, is the date that is 28 days from the date of the notice under *section 5* relating to the penalty points; and, for the purposes of the application of this section to *section 3(1)*, the notice under *section 5* is that relating to the penalty points concerned that are the latest to be endorsed on an entry before a disqualification occurs under *section 3(1)* of the person to whom the entry relates. The appropriate date.

(2) Where, but for this subsection, the appropriate date would fall on a day in a period when the person concerned stands disqualified pursuant to Part III of the Principal Act or *section 3* or *9* for holding a licence, or is otherwise not the holder of a licence, the appropriate date shall fall on the day immediately after the end of the period aforesaid or, as the case may be, the day on which the person becomes such a holder.

(3) If a court enlarges the time for instituting an appeal against a conviction for a penalty point offence, it may, if it thinks it is appropriate and in the interests of justice to do so, by order provide that, in relation to the penalty points concerned—

(a) (i) the period of 6 months specified in *section 3*, or

(ii) the period of 3 years specified in *section 4*,

or both such periods shall begin on such date or dates other than that or those specified in *subsection (1)* as may be stated in the order, or

(b) such a period shall consist of 2 discontinuous periods stated in the order or each such period shall consist of 2 discontinuous periods so stated.

(4) Where an order is made under *subsection (3)*, the appropriate clerk or court registrar or such other member of the staff of the Courts Service as that Service may designate shall notify the Minister of the order.

S.7

(5) In relation to a case in which an order is made under *subsection (3), subsections (1) and (2)*, as may be appropriate, shall be construed in accordance with the order.

(6) (a) In any proceedings, a certificate signed by an officer of the Minister authorised by the Minister in that behalf and stating—

- (i) that he or she has examined the entry relating to a person,
- (ii) that a penalty point was endorsed on the entry on a specified date, and
- (iii) the date of the notice under *section 5* relating to the penalty point,

shall be admissible as evidence of those facts.

(b) A document purporting to be a certificate under *paragraph (a)* shall be deemed to be such a certificate, and to have been signed by the person purporting to have signed it and to have been so signed in accordance with an authorisation under *paragraph (a)*, unless the contrary is shown.

Endorsement of certain convictions and disqualifications on entries.

**8.**—For the purpose of enabling the convictions and the disqualification orders referred to in subsections (3) and (4) of section 36 of the Principal Act to be endorsed on the entries of those concerned in lieu of being endorsed on the licences held by them, the following amendments of the said section 36 are made as respects such convictions occurring, and such orders made, after the commencement of this section—

(a) the references in those subsections to an order directing particulars of a conviction or of a disqualification order to be endorsed on the licence held by a person or, if the person is not the holder of a licence but subsequently a licence is granted to him or her, on that licence are construed as references to an order directing that those particulars be endorsed on the entry then existing or subsequently made in relation to the person, and

(b) the following subsections are added to the said section 36:

“(6) In the cases referred to in subsections (3) and (4) of this section, the Minister shall cause the particulars referred to in those subsections to be endorsed on the appropriate entries.

(7) Where a disqualification referred to in section 29 of this Act is removed under that section or the period of a disqualification referred to in subsection (3) or (4) of this section expires (being in each case a disqualification to which an order relates that stands endorsed on an entry), the Minister shall cause the endorsement and any endorsement relating to the relevant conviction (if any) to be removed from the entry concerned.

(8) The appropriate court registrar or court clerk or such other member of the staff of the Courts Service as that Service may designate shall notify the



Minister of an order under subsection (3) or (4) of this section, of the suspension or postponement under the said subsection (3) or (4) of such an order and of an order under section 29 of this Act removing a disqualification referred to in that section.

(9) In this section, 'entry' has the meaning assigned to it by the *Road Traffic Act, 2002.*'.

9.—(1) Where—

- (a) by reason of the commission, after the entry into force of the Convention, of a specified offence in another Member State ("the State of the offence") by a person who is normally resident in the State, a driving disqualification is imposed on the person for any period in the State of the offence, and
- (b) a competent authority of the State of the offence notifies the Minister in writing in accordance with Article 3 of the Convention of the disqualification and transmits to the Minister—
  - (i) the documents specified in paragraph 1 of Article 8 of the Convention, duly certified, where so required by the Convention, and accompanied by a translation in the English language of the notification and the documents aforesaid,
  - (ii) documents containing the details and information specified in the paragraph aforesaid, and
  - (iii) where appropriate, pursuant to the Convention, the evidence referred to in paragraph 2 of that Article and the supplementary information referred to in paragraph 3 thereof,

Disqualification pursuant to European Convention on Driving Disqualifications.

the Minister shall transmit the notification and the other documents referred to in *paragraph (b)* to the licensing authority that granted, or to which it would fall to grant, a licence to the person.

(2) On application to the appropriate judge in that behalf by a licensing authority that has received a notification under *subsection (1)* and the other documents and, where appropriate pursuant to the Convention, the evidence and information referred to in that subsection, the judge shall, on being satisfied as to the matters specified in *paragraphs (a) and (b) of subsection (1)* and subject to the provisions of this section, make an order declaring the person to whom the notification relates to be disqualified for holding a licence for the period referred to in *subsection (1)(a)* beginning on such day as may be specified in the order.

- (3) (a) In proceedings under *subsection (2)* a certificate signed by an officer of the Minister authorised in that behalf by the Minister and stating that a document identified by and attached to the certificate—
  - (i) is the notification referred to in Article 3 of the Convention of the driving disqualification concerned or a document referred to, or a document containing the details, evidence or supplementary information referred to, in Article 8 of the Convention, and

- (ii) was received by the Minister from a competent authority of the State of the offence concerned in accordance with the said Article 8,

shall be admissible as evidence of, as the case may be, the notification aforesaid or the document so referred to or the details, evidence or supplementary information so referred to.

- (b) A document purporting to be a certificate under *paragraph (a)* shall be deemed to be such a certificate and to have been signed by the person purporting to have signed it and to have been so signed in accordance with an authorisation of the Minister until the contrary is shown.

(4) The period of disqualification for holding a licence to which a person is subjected pursuant to *subsection (2)* shall not exceed the maximum period of disqualification for holding a licence which could be ordered by a court following conviction in the State for an offence consisting of the conduct to which the specified offence concerned relates.

(5) So much of a period of disqualification referred to in *subsection (1)* as has been served in the State of the offence shall be deducted from any period of disqualification under *subsection (2)*.

(6) An order shall not be made under *subsection (2)*—

- (a) if the person concerned has been disqualified under Part III of the Principal Act or this Act for holding a licence in respect of the conduct constituting the specified offence to which the application under *subsection (2)* relates and the period of the disqualification is current or has expired,
- (b) if the person concerned would have benefited from a general pardon or amnesty if the conduct aforesaid has occurred in the State,
- (c) if the period of time between the commission of the specified offence concerned and the institution of the proceedings in respect of it that led to the disqualification referred to in *subsection (1)* was longer than the period within which proceedings in respect of the conduct aforesaid would be required by law to be instituted in the State, or
- (d) if, in the circumstances of the case and having considered any information and evidence referred to in Article 8 of the Convention, the appropriate judge considers that the person concerned did not have an adequate opportunity to defend himself or herself in the proceedings aforesaid.

(7) The appropriate judge may refuse to make an order under *subsection (2)* if—

- (a) the conduct for which the disqualification referred to in *subsection (1)* was imposed—
  - (i) does not constitute an offence under the law of the State, or

- (ii) does not constitute an offence under the law of the State for which disqualification for holding a licence may be ordered by a court, S.9

or

- (b) a period of less than one month of the disqualification referred to in *subsection (1)* remains unexpired on the date on which the order falls to be made or the disqualification is for a period of less than one month.

(8) When the appropriate judge makes or refuses to make an order under *subsection (2)*, the clerk of the District Court concerned or such other member of the staff of the Courts Service as that Service may designate shall notify the Minister of such making or refusal, and the Minister shall cause the central authority of the State of the offence to be notified thereof.

(9) Where, by reason of the commission, after the entry into force of the Convention, of a specified offence in the State by a person who is normally resident in another Member State (“the State of residence”), a driving disqualification is imposed in the State on the person—

- (a) the registrar or clerk of the court concerned or such other member of the staff of the Courts Service as that Service may designate shall notify the Minister of the disqualification as soon as may be and shall comply with any request of the Minister to that Service for further details or information relating to the person, the offence, the disqualification or otherwise required for the purposes of the Convention,

- (b) upon receipt by the Minister of the notification under *paragraph (a)* the Minister shall, subject to *paragraph (d)*, without delay notify the central authority of the State of residence of the disqualification,

- (c) the Minister shall—

- (i) ensure that Article 8 of the Convention is complied with in relation to the notification and may do, or cause to be done, all things necessary for that purpose, including the translation (if required pursuant to Article 9.2 of the Convention), certification and attestation of any document,
- (ii) if necessary, request the Courts Service to provide such further details or information as he or she considers necessary for the purposes of his or her functions under this subsection and the Convention, and
- (iii) without delay notify the central authority aforesaid of any such details or information,

and

- (d) the Minister shall not be obliged to comply with *paragraphs (b)* and *(c)* if—

- (i) the case is one to which an agreement under Article 3.2 of the Convention between the State and the State of residence applies and the agreement is in force, or

S.9

- (ii) the circumstances of the case fall within subparagraph (a), (b) or (c) of paragraph 2 of Article 6 of the Convention and the State of residence has made a declaration under paragraph 3 of that Article that it will always apply that subparagraph and the declaration is in force.

(10) The Minister shall be the competent authority and the central authority for the purposes of the Convention.

(11) Judicial notice shall be taken of the Convention.

(12) (a) In this section—

“appropriate judge” means the judge of the District Court for the time being assigned to the District Court District where the person the subject of the application concerned under *subsection (2)* ordinarily resides or carries on any profession, business or occupation;

“the Convention” means the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on Driving Disqualifications done at Brussels on the 17th day of June, 1998, the text of which, in the English language is, for convenience of reference set out in the *Second Schedule*;

“Member State” means a state that is a member of the European Union;

“specified offence” means an offence arising from conduct referred to in the Annex to the Convention.

- (b) A word or expression that is used in this section and is also used in the Convention has in this section, unless the context otherwise requires, the same meaning as it has in the Convention.

Obligation to provide preliminary breath specimen.

**10.**—The following section is substituted for section 12 of the Act of 1994:

“12.—(1) This section applies to a person in charge of a vehicle in a public place—

- (a) at a time when the vehicle is involved in an accident, or
- (b) who, in the opinion of a member of the Garda Síochána, has consumed intoxicating liquor, or
- (c) who, in the opinion of a member of the Garda Síochána, is committing or has committed an offence under the *Road Traffic Acts, 1961 to 2002* (other than sections 49, 50 and 51 of the Principal Act and sections 12 to 15).

(2) A member of the Garda Síochána may require a person to whom this section applies—

- (a) to provide, by exhaling into an apparatus for indicating the presence of alcohol in the breath, a specimen of his or her breath and may indicate the manner in which he or she is to comply with the requirement,

(b) to accompany him or her to a place (including a S.10 vehicle) at or in the vicinity of the public place concerned and there require the person to provide, by exhaling into such an apparatus, a specimen of his or her breath and may indicate the manner in which the person is to comply with the requirement, or

(c) where the member does not have such an apparatus with him or her, to remain at that place in his or her presence or in the presence of another member of the Garda Síochána until such an apparatus becomes available to him or her (but the member shall not require the person to so remain for more than one hour) and the member may then require the person to provide, by exhaling into such an apparatus, a specimen of his or her breath and may indicate the manner in which he or she is to comply with the requirement.

(3) A person who refuses or fails to comply forthwith with a requirement under this section, or to comply forthwith with such a requirement in a manner indicated by a member of the Garda Síochána, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both.

(4) A member of the Garda Síochána may arrest without warrant a person who in the member's opinion is committing or has committed an offence under this section.

(5) In a prosecution for an offence under this Part or under section 49 or 50 of the Principal Act, it shall be presumed, until the contrary is shown, that an apparatus provided by a member of the Garda Síochána for the purpose of enabling a person to provide a specimen of breath pursuant to this section is an apparatus for indicating the presence of alcohol in the breath.”.

**11.—(1)** The following section is substituted for section 103 of the Principal Act: Fixed charge offences.

“103.—(1) This section applies to such summary offences under the *Road Traffic Acts, 1961 to 2002*, and the *Roads Act, 1993*, as may be declared by the Minister by regulations, made after consultation with the Minister for Justice, Equality and Law Reform, to be fixed charge offences and an offence standing so declared is referred to in this section as a fixed charge offence.

(2) Where a member of the Garda Síochána has reasonable grounds for believing that a fixed charge offence is being or has been committed by a person—

(a) if the member identifies the person, the member shall serve, or cause to be served, personally or by post, on the person a notice under this section,

(b) if the member does not identify the person and the offence involves the use of a mechanically propelled vehicle, the member shall serve, or cause to be served, personally or by post, on the registered owner of the vehicle a notice under this section.

S.11

(3) In a case referred to in subsection (2) of this section, if the offence concerned is not a penalty point offence (within the meaning of the *Road Traffic Act, 2002*)—

- (a) the references in that subsection to a member of the Garda Síochána shall be construed as including references to a traffic warden, and
- (b) paragraph (b) of that subsection shall be construed as if ‘or shall affix such a notice to the vehicle’ were inserted after ‘notice under this section’.

(4) Where—

- (a) a notice under this section is served on the registered owner of a mechanically propelled vehicle or affixed to such a vehicle, and
- (b) the registered owner of the vehicle was not driving or otherwise using the vehicle at the time of the commission of the alleged offence to which the notice relates,

the registered owner shall—

- (i) not later than 28 days after the date of the notice give or send to a member of the Garda Síochána or a traffic warden at the Garda Síochána station or other place specified in the notice a document in the prescribed form signed by the registered owner and stating the name and address of the person who was driving or otherwise using the vehicle at the time of such commission, and
- (ii) give or send to a member of the Garda Síochána or a traffic warden within such period as may be specified by the member or warden at the Garda Síochána station or other place aforesaid such other information within his or her knowledge or procurement as the member or warden may reasonably request for the purpose of identifying, and establishing the whereabouts of, the person referred to in subparagraph (i) of this paragraph.

(5) The Commissioner shall, not later than 28 days after a document referred to in subsection (4) of this section containing the name and address of the person who was driving or otherwise using the vehicle concerned at the time of the commission of the alleged offence concerned is given or sent to a member of the Garda Síochána or a traffic warden, cause a notice under this section to be served, personally or by post, on the person.

(6) A notice under this section shall be in the prescribed form and, if it relates to a penalty point offence (within the meaning of the *Road Traffic Act, 2002*) shall contain a statement to the effect that, if the person on whom it is served makes a payment specified in paragraph (b) or (c) of subsection (7) or, as the case may be, subsection (8) of this section in accordance with those provisions or is convicted of the offence aforesaid, different specified numbers of penalty points (within the meaning aforesaid) will be endorsed on the entry (within the meaning aforesaid) of the person.

(7) If a notice is served pursuant to subsection (2)(a) or (5) S.11 of this section, it shall, without prejudice to the generality of subsection (6) of this section, contain a statement to the effect that—

- (a) the person on whom it is served is alleged to have committed an offence specified in the notice,
- (b) the person may, during the period of 28 days beginning on the date of the notice, make to a member of the Garda Síochána or a traffic warden at a specified Garda Síochána station or at another specified place a payment of a fixed charge of a prescribed amount accompanied by the notice, duly completed,
- (c) if the person does not make the payment specified in paragraph (b) of this subsection, during the period so specified, accompanied by the notice, duly completed, the person may, during the period of 28 days beginning on the expiration of that period, make to a member of the Garda Síochána or a traffic warden at a specified Garda Síochána station or at another specified place a payment of a fixed charge of an amount 50 per cent. greater than the prescribed amount referred to in paragraph (b) of this subsection accompanied by the notice, duly completed, and
- (d) a prosecution in respect of the alleged offence will not be instituted during the periods specified in the notice or, if a payment so specified accompanied by the notice, duly completed, is made during the appropriate period so specified in relation to the payment, at all.

(8) If a notice is served or affixed to a mechanically propelled vehicle pursuant to subsection (2)(b) of this section, it shall, without prejudice to the generality of subsection (6) of this section, contain a statement to the effect that—

- (a) an offence specified in the notice is alleged to have been committed,
- (b) a person liable to be prosecuted for the offence may during the period of 28 days beginning on the date of the notice, make to a member of the Garda Síochána or a traffic warden at a specified Garda Síochána station or at another specified place a payment of a fixed charge of a prescribed amount accompanied by the notice, duly completed,
- (c) if a person such as aforesaid does not make the payment specified in paragraph (b) of this subsection during the period so specified accompanied by the notice, duly completed, the person may, during the period of 28 days beginning on the expiration of the period specified in that paragraph, make to a member of the Garda Síochána or a traffic warden at a specified Garda Síochána station or at another specified place a payment of a fixed charge of an amount 50 per cent. greater than the prescribed amount referred to in paragraph (b) of this section accompanied by the notice, duly completed,

S.11

- (d) if the registered owner of the vehicle concerned was not driving or otherwise using the vehicle at the time of the commission of the alleged offence concerned, he or she is required by subsection (4) of this section—
- (i) not later than 28 days after the date of the notice, to give or send to a member of the Garda Síochána or a traffic warden at a specified Garda Síochána station or at another specified place a document in the prescribed form signed by the registered owner and stating the name and address of the person who was driving or otherwise using the vehicle at the time of such commission, and
  - (ii) to give or send to a member of the Garda Síochána or a traffic warden within such period as may be specified by him or her at a specified Garda Síochána station or another specified place such other information within his or her knowledge or procurement as the member or warden may reasonably request for the purpose of identifying, and establishing the whereabouts of, the person referred to in subparagraph (i) of this paragraph,
- (e) a prosecution in respect of the alleged offence will not be initiated during the periods specified in the notice pursuant to paragraphs (b) and (c) of this subsection or, if a payment specified in the notice accompanied by the notice, duly completed, is made during the appropriate period so specified in relation to the payment, at all,
- (f) if a payment aforesaid accompanied by the notice, duly completed, is made during the appropriate period aforesaid, the registered owner need not comply with subsection (4) of this section,
- (g) if the registered owner complies with the said subsection (4), a payment aforesaid need not be made by the registered owner and a prosecution of him or her in respect of the alleged offence will not be initiated, and
- (h) subject to paragraph (f) of this subsection, failure to comply with the said subsection (4) is an offence upon conviction of which the registered owner is liable to a fine not exceeding €800.
- (9) Where a notice is served or affixed under subsection (2) of this section or served under subsection (5) of this section—
- (a) a person or the person to whom the notice applies may, during the period specified in the notice, make to a member of the Garda Síochána or a traffic warden at the Garda Síochána station or other place specified in the notice a payment specified in the notice at the appropriate time so specified in relation to the payment accompanied by the notice, duly completed,



[2002.]

*Road Traffic Act, 2002.*

[No. 12.]

- (b) the member or warden may receive the payment, issue S.11 a receipt therefor and retain it for disposal in accordance with the *Road Traffic Acts, 1961 to 2002*, and no payment so received shall in any circumstances be recoverable by the person who made it,
- (c) a prosecution in respect of the alleged offence to which the notice relates shall not be instituted during the periods specified in the notice or, if a payment so specified is made during the period so specified accompanied by the notice, duly completed, in relation to the payment, at all,
- (d) in case the notice is served or affixed pursuant to paragraph (b) of the said subsection (2) and a payment aforesaid accompanied by the notice, duly completed, is so made, the registered owner need not comply with subsection (4) of this section, and
- (e) if the registered owner complies with the said subsection (4), the payment aforesaid need not be made by the registered owner and a prosecution of the registered owner in respect of the alleged offence aforesaid shall not be initiated.

(10) In a prosecution for a fixed charge offence, it shall be presumed, until the contrary is shown that a payment pursuant to the relevant notice under this section accompanied by the notice, duly completed, has not been made.

(11) Where, in a case to which subsection (2)(b) of this section applies, the registered owner of the mechanically propelled vehicle concerned does not furnish in accordance with subsection (4) of this section the information specified in paragraph (i) of that subsection, then, in a prosecution of that owner for the alleged offence to which the notice under the said subsection (2)(b) relates, it shall be presumed, until the contrary is shown that he or she was driving or otherwise using the vehicle at the time of the commission of the said alleged offence.

(12) A notice which is affixed to a mechanically propelled vehicle under subsection (2) of this section shall not be removed or interfered with except by a person to whom the notice applies.

(13) A person who contravenes subsection (4) of this section shall, subject to subsection (9)(d) of this section, be guilty of an offence and a person who contravenes subsection (12) of this section shall be guilty of an offence.

(14) It shall be a defence for a person charged with an offence under subsection (13) of this section consisting of a contravention of subsection (4) of this section for the person to show that the information concerned was not within his or her knowledge or procurement and that he or she had taken all reasonable steps to obtain the information.

(15) In a prosecution for an offence under subsection (13) of this section consisting of a contravention of subsection (4) of this section, it shall be presumed, until the contrary is shown, that the accused person received the notice under this section to which the offence relates.

(16) In a prosecution of a person for—

- (a) the alleged offence to which a notice under this section, served on the registered owner of a mechanically propelled vehicle, relates, or
- (b) an offence under subsection (17) of this section,

a document, purporting to be a document under subsection (4) of this section stating the name and address of the person who was driving or otherwise using the vehicle at the time of the commission of the alleged offence referred to in paragraph (a) of this subsection and to be signed by that registered owner, given or sent under paragraph (i) of that subsection by that owner to a member of the Garda Síochána or a traffic warden shall, until the contrary is shown, be deemed to be such a document and to be so signed and, in case the prosecution is for the offence referred to in paragraph (a) of this subsection, shall be admissible as evidence, until the contrary is shown, of the facts stated in it.

(17) A person who, pursuant to subsection (4) of this section, gives or sends to a member of the Garda Síochána or a traffic warden information (whether or not contained in a document) that is, to his or her knowledge, false or misleading shall be guilty of an offence.

(18) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under subsection (13) of this section consisting of a contravention of subsection (4) of this section may be brought at any time within 2 years from the date on which the offence was committed.

(19) (a) The Minister may authorise in writing such and so many persons as he or she may determine to perform the functions conferred on traffic wardens by this section; and a person so authorised shall, when performing any such function, if so requested, produce to the person who made the request the authorisation of the Minister under this section or a copy of it.

(b) The Minister may revoke an authorisation under this subsection.

(c) The number of persons standing authorised under this subsection and their remuneration and other conditions of service shall be such as may be determined by the Minister with the consent of the Minister for Finance.

(d) Neither the Civil Service Commissioners Act, 1956, nor the Civil Service Regulation Act, 1956, shall apply to the position of traffic warden.

(e) In this subsection, ‘the Minister’ means the Minister for Justice, Equality and Law Reform.

(20) Where a traffic warden has reasonable grounds for believing that a person is committing or has committed a fixed charge offence, the traffic warden may request of the person his or her name and address and, if the person does not comply

with the request or gives a name or address that is false or misleading, he or she shall be guilty of an offence. S.11

(21) The Minister may make regulations for enabling this section to have full effect and any such regulations in relation to fixed charges referred to in subsection (7) of this section may specify different amounts in relation to different fixed charge offences and to such offences involving different classes of vehicles and to such offences committed in different areas.

(22) (a) In this section ‘traffic warden’ means a person standing authorised under subsection (19) of this section.

(b) In this section, references to a notice under this section, duly completed, are references to such a notice on which the number, the date of the grant, and the period of validity, of the driving licence of the person to whom the notice relates have been inserted by or on behalf of the person.”.

(2) (a) Regulations under section 103 of the Principal Act in force immediately before the commencement of this section shall continue in force after such commencement as if made under section 103 (as inserted by this Act) of the Principal Act and may be amended or revoked accordingly.

(b) A person who, immediately before such commencement, stands appointed under section 103 of the Principal Act as an authorised person shall, upon such commencement, be deemed to be a traffic warden standing authorised under subsection (19) of section 103 (as inserted by this Act) of the Principal Act.”.

**12.—**(1) The following section is substituted for section 3 of the Act of 1975: Amendment of Act of 1975.

“3.—(1) (a) This section applies to such of the offences specified in paragraph (b) as may be declared by the Minister by regulations made after consultation with the Minister for Justice, Equality and Law Reform to be fixed charge offences and an offence standing so declared is referred to in this section as a fixed charge offence.

(b) The offences referred to in paragraph (a) of this section are:

(i) an offence under the *Road Traffic Acts, 1961 to 2002*, relating to the prohibition or restriction of the stopping or parking of mechanically propelled vehicles,

(ii) the offence under section 18 of the Principal Act of contravening article 5 (prohibition of use of vehicles not displaying valid test disc) of the Road Traffic (National Car Test) Regulations, 1999 (S.I. No. 395 of 1999),

[No. 12.] *Road Traffic Act, 2002.* [2002.]

S.12

(iii) an offence under section 73 of the Finance Act, 1976,

(iv) the offence under section 13 of the Roads Act, 1920, of using a vehicle for which a licence under the Finance (Excise Duties) (Vehicles) Act, 1952, is not in force,

(v) the offence under regulations under the Roads Act, 1920, of not fixing to and exhibiting on a vehicle in the manner prescribed by those regulations of a licence in respect of the vehicle for the time being in force taken out under the Finance (Excise Duties) (Vehicles) Act, 1952.

(2) Where a traffic warden has reasonable grounds for believing that a fixed charge offence is being or has been committed by a person—

(a) if the warden identifies the person, the warden shall serve, or cause to be served, personally or by post, on the person a notice under this section,

(b) if the warden does not identify the person and the offence involves the use of a mechanically propelled vehicle, the warden shall serve, or cause to be served, personally or by post, on the registered owner of the vehicle a notice under this section or shall affix such a notice to the vehicle.

(3) Where—

(a) a notice under this section is served on the registered owner of a mechanically propelled vehicle or affixed to such a vehicle, and

(b) the registered owner of the vehicle was not driving or otherwise using the vehicle at the time of the commission of the alleged offence to which the notice relates,

the registered owner shall—

(i) not later than 28 days after the date of the notice give or send to a traffic warden at a place specified in the notice a document in the prescribed form signed by the registered owner and stating the name and address of the person who was driving or otherwise using the vehicle at the time of such commission, and

(ii) give or send to a traffic warden within such period as may be specified by the warden at the place aforesaid such other information within his or her knowledge or procurement as the warden may reasonably request for the purpose of identifying, and establishing the whereabouts of the person referred to in subparagraph (i) of this paragraph.

(4) Where a document referred to in subsection (3) of this section containing the name and address of the person who was driving or otherwise using the vehicle concerned at the time of the commission of the alleged offence concerned is given or sent

[2002.]

*Road Traffic Act, 2002.*

[No. 12.]

to a traffic warden employed by a local authority, the authority shall, not later than 28 days thereafter, cause a notice under this section to be served, personally or by post, on the person. S.12

(5) A notice under this section shall be in the prescribed form.

(6) If a notice is served pursuant to subsection (2)(a) or (4) of this section, it shall, without prejudice to subsection (5) of this section, contain a statement to the effect that—

- (a) the person on whom it is served is alleged to have committed an offence specified in the notice,
- (b) the person may, during the period of 28 days beginning on the date of the notice, make to the local authority specified in the notice at a place so specified a payment of a fixed charge of a prescribed amount accompanied by the notice, duly completed,
- (c) if the person does not make the payment specified in paragraph (b) of this subsection during the period so specified accompanied by the notice, duly completed, the person may, during the period of 28 days beginning on the expiration of that period, make to the local authority aforesaid at the place aforesaid a payment of a fixed charge of an amount 50 per cent. greater than the prescribed amount referred to in paragraph (b) of this subsection accompanied by the notice, duly completed, and
- (d) a prosecution in respect of the alleged offence will not be instituted during the periods specified in the notice or, if a payment so specified accompanied by the notice, duly completed, is made during the appropriate period so specified in relation to the payment, at all.

(7) If a notice is served or affixed to a mechanically propelled vehicle pursuant to subsection (2)(b) of this section, it shall, without prejudice to the generality of subsection (5) of this section, contain a statement to the effect that—

- (a) an offence specified in the notice is alleged to have been committed,
- (b) a person liable to be prosecuted for the offence may, during the period of 28 days beginning on the date of the notice, make to a local authority specified in the notice at the place so specified a payment of a fixed charge of a prescribed amount accompanied by the notice, duly completed,
- (c) if a person such as aforesaid does not make the payment specified in paragraph (b) of this subsection during the period so specified accompanied by the notice, duly completed, the person may, during the period of 28 days beginning on the expiration of the period specified in that subparagraph, make to the local authority aforesaid at the place aforesaid a payment of a fixed charge of an amount 50 per cent. greater than the prescribed amount referred to in

paragraph (b) of this subsection accompanied by the notice, duly completed,

- (d) if the registered owner of the vehicle concerned was not driving or otherwise using the vehicle at the time of the commission of the alleged offence concerned, he or she is required by subsection (3) of this section—
  - (i) not later than 28 days after the date of the notice to give or send to the local authority specified in the notice at the place so specified a document in the prescribed form signed by the registered owner and stating the name and address of the person who was driving or otherwise using the vehicle at the time of such commission, and
  - (ii) to give or send to the authority aforesaid at the place aforesaid within such period as may be specified by the authority such other information within his or her knowledge or procurement as the authority may reasonably request for the purpose of identifying, and establishing the whereabouts, of the person referred to in subparagraph (i) of this paragraph,
- (e) a prosecution in respect of the alleged offence will not be initiated during the periods specified in the notice pursuant to paragraphs (b) and (c) of this subsection or, if a payment specified in the notice accompanied by the notice, duly completed, is made during the appropriate period so specified in relation to the payment, at all,
- (f) if a payment aforesaid accompanied by the notice, duly completed, is made during the appropriate period aforesaid, the registered owner need not comply with subsection (3) of this section,
- (g) if the registered owner complies with the said subsection (3), a payment aforesaid need not be made by the registered owner and a prosecution of him or her in respect of the alleged offence will not be initiated, and
- (h) subject to paragraph (f) of this subsection, failure to comply with the said subsection (3) is an offence upon conviction of which the registered owner is liable to a fine not exceeding €800.

(8) Where a notice is served or affixed under subsection (2) of this section or served under subsection (4) of this section—

- (a) a person or the person to whom the notice applies may, during the period specified in the notice, make to the local authority so specified at the place so specified a payment so specified at the appropriate time so specified in relation to the payment accompanied by the notice, duly completed,

- (b) the local authority may receive the payment, issue a receipt therefor and retain it for disposal in accordance with regulations under this Act and no payment so received shall in any circumstances be recoverable by the person who made it, S.12
- (c) a prosecution in respect of the alleged offence to which the notice relates shall not be instituted during the periods specified in the notice or, if a payment so specified accompanied by the notice, duly completed, is made during the period so specified in relation to the payment, at all,
- (d) in case the notice is served or affixed pursuant to paragraph (b) of the said subsection (2) and a payment aforesaid accompanied by the notice, duly completed, is so made, the registered owner need not comply with subsection (3) of this section, and
- (e) if the registered owner complies with the said subsection (3), the payment aforesaid need not be made by the registered owner and a prosecution of him or her in respect of the offence shall not be initiated.

(9) In a prosecution for a fixed charge offence, it shall be presumed, until the contrary is shown, that a payment pursuant to the relevant notice under this section accompanied by the notice, duly completed, has not been made.

(10) Where, in a case to which subsection (2)(b) of this section applies, the registered owner of the mechanically propelled vehicle concerned does not furnish in accordance with subsection (3) of this section the information specified in paragraph (i) of that subsection, then, in a prosecution of that owner for the alleged offence to which the notice under the said subsection (2)(b) relates, it shall be presumed, until the contrary is shown, that he or she was driving or otherwise using the vehicle at the time of the commission of the alleged offence.

(11) A notice which is affixed to a mechanically propelled vehicle under subsection (2) of this section shall not be removed or interfered with except by a person to whom the notice applies.

(12) A person who contravenes subsection (3) of this section shall, subject to subsection (8)(d) of this section, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €800, and a person who contravenes subsection (11) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €800.

(13) It shall be a defence for a person charged with an offence under subsection (12) of this section consisting of a contravention of subsection (3) of this section for the person to show that the information concerned was not within his or her knowledge or procurement and that he or she had taken all reasonable steps to obtain the information.

(14) In a prosecution for an offence under subsection (12) of this section consisting of a contravention of subsection (3) of this section, it shall be presumed, until the contrary is shown, that the accused person received the notice under this section to which the offence relates.

(15) In a prosecution of a person for—

- (a) the alleged offence to which a notice under this section, served on the registered owner of a mechanically propelled vehicle, relates, or
- (b) an offence under subsection (16) of this section,

a document, purporting to be a document under subsection (3) of this section stating the name and address of the person who was driving or otherwise using the vehicle at the time of the commission of the alleged offence referred to in paragraph (a) of this subsection and to be signed by that registered owner, given or sent under paragraph (i) of that subsection by that owner to a traffic warden shall, until the contrary is shown, be deemed to be such a document and to be so signed and, in case the prosecution is for the offence referred to in paragraph (a) of this subsection, shall be admissible, until the contrary is shown, as evidence of the facts stated in it.

(16) A person who, pursuant to subsection (3) of this section, gives or sends to a traffic warden information (whether or not contained in a document) that is, to his or her knowledge, false or misleading shall be guilty of an offence.

(17) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under subsection (12) of this section consisting of a contravention of subsection (3) of this section may be brought at any time within 2 years from the date on which the offence was committed.

(18) In this section, references to a notice under this section, duly completed, are references to such a notice on which the number, the date of the grant, and the period of validity, of the driving licence of the person to whom the notice relates have been inserted by or on behalf of the person.”.

(2) Section 2 of the Act of 1975 is amended by the substitution of the following for subsection (1):

“(1) A local authority may, after consultation with the Commissioner of the Garda Síochána, make arrangements for the performance in the functional area of the authority, of the functions conferred on traffic wardens by this Act by persons employed by the authority or persons authorised in writing by the authority to perform those functions.”.

(3) Section 5 of the Act of 1975 is amended by the substitution of “an offence under section 3(12) of this Act” for “an offence under section 3(5) of this Act.”.

(4) Regulations under section 3 of the Act of 1975 in force immediately before the commencement of this section shall continue in force after such commencement as if made under section 3 (as inserted by this Act) of that Act and may be amended or revoked accordingly.

**13.—**(1) The Minister may, for the purposes of—

- (a) the protection of the environment and the reduction or elimination of damage to it caused by the use of vehicles,



(b) the protection of— S.13

(i) persons and animals from damage to health, distress and discomfort, and

(ii) other property from damage,  
caused by harmful emissions and excessive noise from vehicles, and

(c) the reduction or elimination of such emissions and noise,

make such regulations as he or she considers appropriate in relation to vehicles, emissions from, or noise of, vehicles constituting environmental pollution (within the meaning of the Environmental Protection Agency Act, 1992) and the use of vehicles in public places.

(2) Regulations under this section may, in particular and without prejudice to the generality of *subsection (1)*, make provision in relation to all or any of the following matters:

- (a) the construction of vehicles,
- (b) the prohibition of the fitting to vehicles or the use thereon of specified vehicle equipment,
- (c) the regulation, restriction or prohibition of the use of specified fuels or additives to fuels in engines, or specified engines, of vehicles either generally or in specified places or at specified times or in specified weather conditions or other specified circumstances,
- (d) the carriage on vehicles on public roads or specified public roads of specified goods or materials either generally or at specified times or in specified weather conditions or other specified circumstances,
- (e) the adaptation and modification of the engines of vehicles,
- (f) the restriction or prohibition of the use of vehicles in specified places or localities or at specified times or in specified weather conditions or other specified circumstances,
- (g) the restriction, by the imposition of maximum speed limits, of the speeds at which vehicles may be driven in specified places or localities or at specified times or in specified weather conditions or other specified circumstances, and
- (h) the prohibition of the use of vehicles on specified roads or specified parts of specified roads.

(3) Different regulations may be made under this section for different classes of vehicles.

(4) Where a vehicle does not comply with a regulation under this section, the registered owner of the vehicle shall be guilty of an offence.

(5) A person shall not use in a public place a vehicle that does not comply with a regulation under this section.

(6) A person who contravenes *subsection (5)* of this section or a regulation under this section shall be guilty of an offence; and where

S.13 the contravention is of the said *subsection (5)* and the person is not the registered owner of the vehicle concerned, the registered owner shall also, in such cases as may be prescribed, be guilty of an offence.

(7) Where a person who contravenes *subsection (4)* of this section is not the registered owner of the vehicle concerned and such owner is charged with an offence under that subsection in relation to the matter, it shall be a defence to the charge for the owner to show that the use of the vehicle on the occasion in question was unauthorised.

(8) In this section—

“vehicles” means mechanically propelled vehicles;

“vehicle equipment” has the meaning assigned to it by section 11 of the Principal Act.

Performance of certain functions.

**14.—(1)** The Minister may, by an agreement in writing entered into with any person, upon such terms and conditions as may be specified in the agreement, provide for the performance by that person, subject to such terms and conditions (if any) as may be so specified, of such functions as may be so specified.

(2) An agreement under this section may, in particular and without prejudice to the generality of *subsection (1)*, make provision in relation to all or any of the following matters:

- (a) the fees (if any) to be charged by the person performing a function in pursuance of the agreement on those in relation to whom the function is performed or on the person on whom the function was originally conferred,
- (b) the payments (if any) to be made to the person on whom the function was originally conferred by the person performing the function in pursuance of the agreement, and
- (c) the disposal of any such fees and payments as aforesaid.

(3) An agreement under this section shall operate, so long as it continues in force, to confer and vest in the person concerned, to the extent and subject to the terms and conditions specified in the agreement, the function so specified.

(4) A function conferred on a person by an agreement under this section shall be performable by the person in his or her own name but subject to the general superintendence and control of the person on whom the function was originally conferred.

(5) A function referred to in *subsection (4)* shall, notwithstanding the agreement concerned, continue to be vested in the person on whom it was originally conferred but shall be so vested concurrently with the person on whom it is conferred by that agreement and so as to be capable of being performed by either of those persons.

(6) The conferral on a person by an agreement under this section of a function of the Minister shall not remove or derogate from the Minister’s responsibility to Dáil Éireann or as a member of the Government for the performance of the function.

(7) In this section “function” includes a power and a duty; and the references to a function are references to a function conferred

on the Minister, a licensing authority, a local authority, a road authority or the Commissioner by, or by a statutory instrument (within the meaning of the Interpretation Act, 1937), under the Acts or this Act other than a function of the Minister under this section, or a power to make, approve of, or consult in relation to, the making of, a statutory instrument (within the meaning aforesaid).

S.14

**15.—(1)** The following section is substituted for section 84 of the Principal Act: Bye-laws in relation to stands for taxis.

“84.—(1) A local authority may make bye-laws in respect of any specified area in its functional area (in this section referred to as ‘a taximeter area’) for all or any of the following purposes:

- (a) appointing the places (in this section referred to as ‘appointed stands’) in the taximeter area at which taxis may stand for hire,
- (b) fixing the maximum number of taxis which may stand for hire at the same time at any particular appointed stand,
- (c) specifying appointed stands at which taxis may stand for hire at particular times only and specifying those times,
- (d) determining the manner in which taxis shall make use of and stand for hire at any particular appointed stand,
- (e) prohibiting taxis from standing for hire at places in the area that are not appointed stands, and
- (f) otherwise regulating and controlling the use of appointed stands by taxis.

(2) Different bye-laws may be made under this section—

- (a) in respect of different taximeter areas within the functional area of the local authority concerned, and
- (b) in respect of other different circumstances.

(3) A taxi shall not stand for hire other than at an appointed stand in the taximeter area in which it is licensed under regulations under section 82 of this Act to so stand.

(4) A driver of a taxi in respect of which there is a contravention of subsection (3) or a bye-law under this section shall be guilty of an offence.

(5) Any other person who contravenes a bye-law under this section shall be guilty of an offence.

(6) Where a local authority proposes to make bye-laws under this section, it shall—

- (a) consult with the Commissioner, and
- (b) publish a notice in *Iris Oifigiúil* and in one or more newspapers circulating in the taximeter area to which the proposed bye-laws will relate stating—

[No. 12.] *Road Traffic Act, 2002.* [2002.]

S.15

- (i) that the authority proposes to make bye-laws under this section in relation to the area,
- (ii) the times at which, the period (being of 4 weeks duration) during which and the place in the functional area of the authority where a copy of the draft bye-laws may be inspected and purchased,
- (iii) that representations may be made to the authority by any person affected before a specified date (which shall be not less than 2 weeks after the end of the period referred to in subparagraph (ii) of this paragraph),

and

- (c) make the draft bye-laws available for inspection and purchase at the times, during the period of 4 weeks, and at the place specified in each case in the notice aforesaid.

(7) Where a notice is published pursuant to subsection (6) of this section, a person may make representations in relation to the proposed bye-laws to the local authority concerned before the date specified in the notice, and the authority shall, before deciding to make the bye-laws and determining their contents, have regard to any such representations.

(8) Where a local authority ('the authority') proposes to make bye-laws under this section in relation to a public road (within the meaning of the Roads Act, 1993) responsibility for the maintenance of which lies on a road authority (not being the local authority), the authority shall consult with that other authority before making the bye-laws.

(9) As soon as may be after the making of bye-laws under this section—

- (a) copies of the bye-laws shall be made available for inspection and purchase by the public at a place in the functional area of the local authority concerned, and
- (b) notice of their making and of the place aforesaid shall be published in one or more newspapers circulating in the area aforesaid.

(10) The Minister may draw up and publish to local authorities guidelines in relation to bye-laws under this section and their contents and may by notice in writing published to local authorities amend or revoke guidelines, and amendments thereof, under this subsection, and local authorities shall have regard to any such guidelines for the time being in force when drawing up, amending or revoking bye-laws under this subsection.

(11) In this section—

'local authority' means a local authority for the purposes of the Local Government Act, 1941;

'taxi' means a street service vehicle.

(12) The function conferred on a local authority by subsection (1) is a reserved function. S.15

(13) Section 7 of this Act shall apply to bye-laws under subsection (1) of this section as it applies to bye-laws under this Act made by the Commissioner.”.

(2) Bye-laws under section 84 of the Principal Act in force immediately before the commencement of this section shall continue in force after such commencement as if made under section 84 (as inserted by this Act) of the Principal Act and may be amended or revoked accordingly.

**16.—**(1) The following section is substituted for section 85 of the Principal Act: Stopping places and stands for buses.

“85.—(1) A road authority may, by notice in writing, direct, in respect of a route upon which buses are operated, that specified points shall be stopping places at which persons may board or descend from buses or that specified places shall be used as stands for buses.

(2) A road authority may by notice in writing amend or revoke a direction given, or amendment made, by it under this section.

(3) A person operating or proposing to operate a bus service may apply to the road authority in whose functional area the service is being or will be operated for a direction under this section and the authority may, if it so thinks fit, after consultation with the person, give a direction specifying such points for stopping places, and places for stands, for buses as it considers appropriate.

(4) A notice under this section may direct that—

- (a) one or more of the stopping places specified in the notice shall be used only for boarding buses or, as the case may be, only for descending from buses, or
- (b) one or more of the stopping places so specified, or one or more of the stands so specified, shall be used only by buses providing a service or services operated by a specified person or by specified persons.

(5) A notice under this section—

- (a) shall be given or sent by post to the person who is operating the bus service to which it relates, and
- (b) shall specify the date on which it comes into operation,

and the notice shall come into operation on the date so specified.

(6) A certificate purporting to be signed by an officer of a road authority and stating that a notice under this section in specified terms was in force on a specified day or during a specified period shall, without proof of the signature of the person purporting to sign the certificate or that he or she was such an officer, be evidence in any legal proceedings until the contrary is shown that a notice under this section in the specified terms

[No. 12.] *Road Traffic Act, 2002.* [2002.]

S.16 was given or sent by post to the person named in it and that it was in force on the specified day or during the specified period.

(7) In this section—

‘bus’ means omnibus;

‘road authority’ has the meaning assigned to it by the Roads Act, 1993.”.

(2) Directions under section 85 of the Principal Act in force immediately before the commencement of this section shall continue in force after such commencement as if given under section 85 (as inserted by this Act) of the Principal Act and may be amended or revoked accordingly.

Amendment of section 56 of Principal Act.

**17.**—The following subsection is substituted for subsection (2) of section 56 of the Principal Act:

“(2) The insurance required by this section may be subject to the following limitation and the following exception or either of them—

- (a) it may, in so far as it relates to injury to property, be limited to the sum of €200,000 in respect of injury caused by any one act of negligence or any one series of acts of negligence collectively constituting one event,
- (b) there may be excepted from the liability covered thereby any liability (in excess of the common law or the statutory liability applicable to the case) undertaken by the insured or the principal debtor by special contract.”.

Amendment of section 40 of Principal Act.

**18.**—Section 40 of the Principal Act (as inserted by the Act of 1994) is hereby amended by the insertion after subsection (1) of the following subsections:

“(1A) (a) A member of the Garda Síochána may demand of a person who is driving in a public place a mechanically propelled vehicle and is not the holder of a driving licence the production to him or her of a provisional licence then having effect and licensing the person to drive the vehicle, and if the person refuses or fails so to produce the licence and is a person falling within section 35(1) of this Act, he or she shall be guilty of an offence.

(b) References in paragraphs (b), (c), and (d) of subsection (1), and in the subsequent subsections of this section to a driving licence shall be construed, in relation to a person specified in subsection (1) who is a person falling within the said section 35(1), as references to a provisional licence.

(1B) Where a person who is driving in a public place a mechanically propelled vehicle and of whom the production of a driving licence is demanded under paragraph (a) of subsection (1) of

this section or is required under paragraph (b) of that subsection S.18 produces, in accordance with the demand or request, a provisional licence then having effect and licensing the person to drive the vehicle concerned—

- (a) the person shall not be guilty of an offence under the said paragraph (a) or, as the case may be, the said paragraph (b), and
- (b) paragraph (d) of that subsection shall be construed, in relation to any production of the provisional licence in accordance with the said paragraph (b), as if the references in the said paragraph (d) to a driving licence were references to a provisional licence.”.

**19.**—Section 18 of the Act of 1968 is hereby amended by the insertion after subsection (1) of the following subsection: Amendment of section 18 of Act of 1968.

“(1A) (a) In this subsection—

‘approval’ means a document authorising the holder to issue instruction certificates;

‘approved body’ means a body that holds an approval;

‘driving instruction’ means instruction given for reward in or in respect of the driving of a vehicle;

‘instruction certificate’ means a certificate referred to in paragraph (b)(ii).

(b) Regulations under this section may provide for—

(i) the exemption from the regulations or specified provisions of the regulations of holders of instruction certificates as respects vehicles to which the certificates relate,

(ii) the issue of instruction certificates by an approved body to persons as respects whom the body is satisfied that they are competent, and appropriately qualified, to give driving instruction of a recognised standard specified in the regulations in respect of vehicles or vehicles of a specified class and the inclusion in the certificates of statements to the effect that the body is so satisfied,

(iii) the revocation by an approved body of an instruction certificate issued by it,

(iv) the grant by the Minister of approvals to persons as respects whom the Minister is satisfied that they are competent, and appropriately qualified, to assess the com-

[No. 12.]

Road Traffic Act, 2002.

[2002.]

petence and qualifications of persons who apply to them for the issue of instruction certificates,

- (v) the attachment of conditions by the Minister to approvals and the revocation or amendment of such conditions,
- (vi) notification of the person concerned of a proposal to revoke an approval or instruction certificate, or to revoke or amend conditions of approvals, and of the reasons therefor,
- (vii) the making of representations to the Minister or the approved body concerned by the persons affected in relation to proposals referred to in subparagraph (vi) and the consideration of any such representations by the Minister or by the body, as the case may be, before deciding whether to proceed with the proposals,
- (viii) appeals to the District Court against a revocation or amendment aforesaid and against refusals to issue an approval or an instruction certificate,
- (ix) applications for approvals and the conditions to be complied with by applicants (including conditions relating to competence, standards and qualifications and the payment of fees to the Minister),
- (x) the systems to be established by approved bodies for ascertaining and assessing from time to time the competence and standards of holders of instruction certificates, and
- (xi) the entry on premises of approved bodies and applicants for approvals at all reasonable times by duly authorised officers of the Minister and the examination and copying by such officers of records and other documents, whether in electronic or other form, kept there and the provision to such officers by such bodies and applicants and their staff of such information as they may reasonably request for the purposes of the functions of the Minister under this subsection.”.

S.19

Amendment of section 35 of Act of 1994.

**20.**—Section 35 of the Act of 1994 is amended by the insertion in subsection (2) of the following paragraph after paragraph (r):

“(rr) the control and regulation of the use of stopping places, and stands, specified in notices under section 85 of the Principal Act including the restriction and prohibition of the parking and stopping of vehicles at such stopping places and stands;”.



[2002.]

*Road Traffic Act, 2002.*

[No. 12.]

**21.**—(1) The onus of establishing *prima facie* proof of a constituent of an offence committed after the commencement of this section (including the speed at which a person, whether the accused or another person, was driving) under section 47, 52, 53, 55, 91, 92, 93 or 94 of the Principal Act or section 35 of the Act of 1994 may be discharged by tendering evidence from which that constituent can be inferred of measurements or other indications which were given by electronic or other apparatus (including a camera) and are contained in a record produced by that apparatus, and it shall not be necessary to prove that the electronic or other apparatus was accurate or in good working order.

Evidence in relation to certain offences.

(2) In proceedings for an offence referred to in *subsection (1)*—

(a) a document—

- (i) purporting to be, or to be a copy of, a record referred to in that subsection and to be signed by a member of the Garda Síochána, and
- (ii) on which is endorsed a statement to the effect that it is, or is a copy of, the record aforesaid,

shall be *prima facie* evidence in those proceedings of the indications or measurements contained in the record, and it shall not be necessary to prove the signature on the document or that the signatory was a member of the Garda Síochána, and

(b) a copy of the document aforesaid shall be furnished to the accused person before the commencement of the trial of the offence.

(3) The electronic or other apparatus referred to in *subsection (1)* shall—

(a) be capable of producing a photograph or other record of the measurements or other indications referred to in that subsection, and

(b) be of a type that has been approved by—

- (i) the Commissioner or another member of the Garda Síochána not below the rank of Chief Superintendent authorised in that behalf by the Commissioner, or
- (ii) the chief executive officer of the National Roads Authority or another officer of that Authority duly authorised in that behalf by the first-mentioned officer,

and it shall not be necessary to prove that the apparatus is of a type so approved.

(4) In proceedings for an offence referred to in *subsection (1)*, if proof of the offence involves proof of the speed at which a person

S.21                      (whether the accused or another person) was driving, the uncorroborated evidence of one witness stating his opinion as to that speed shall not be accepted as proof of that speed.

Inspection of driving licences of persons charged with certain offences.

**22.**—(1) A person charged with a penalty point offence or an offence committed after the commencement of this section on conviction of which the court is required to make a consequential disqualification order shall, not later than the day on which the hearing by a court of the proceedings in relation to the charge commences, give or send his or her driving licence to such officer of the Courts Service as may be designated by that Service and an officer of that Service may inspect and make a copy of the licence or of extracts from it and shall then return it to the person.

(2) *Subsection (1)* does not apply to a person charged with an offence if the person produces, on or after the date of its commission, and before the hearing by a court of the proceedings in relation to the charge, his or her licence to a member of the Garda Síochána who is or was acting in connection with the alleged offence or the court proceedings concerned.

(3) A person who contravenes *subsection (1)* shall be guilty of an offence.

Increase of certain penalties.

**23.**—(1) A person convicted of an offence for which a penalty is provided by—

- (a) a provision of the Principal Act mentioned in *column (2)* of *Part 1* of the Table to this section (“the Table”) at any reference number mentioned in *column (1)* of that Part,
- (b) a provision of the Act of 1968 mentioned in *column (2)* of *Part 2* of the Table at any reference number mentioned in *column (1)* of that Part,
- (c) the provision of the Road Traffic (Amendment) Act, 1984, mentioned in *column (2)* of *Part 3* of the Table, or
- (d) a provision of the Act of 1994 mentioned in *column (2)* of *Part 4* of the Table at a reference number mentioned in *column (1)* of that Part,

shall, in lieu of the monetary penalty so provided, be liable to the monetary penalty, expressed in euro, specified in *column (3)* of the said Table at that reference number.

## TABLE

*Part 1*

## Principal Act

Reference Number (1)	Provision (2)	Monetary Penalty (3)
1	Section 12(4)	A fine not exceeding €1,500
2	Section 16(5)	A fine not exceeding €1,500
3	Section 18(2)	A fine not exceeding €1,500
4	Section 20(10)(a)	A fine not exceeding €1,500
5	Section 38(5)	A fine not exceeding €2,500
6	Section 39(2)	A fine not exceeding €2,500
7	Section 48(2)	In the case of a first offence, a fine not exceeding €800 In the case of a second or any subsequent offence, a fine not exceeding €1,500
8	Section 49(6)(a)	A fine not exceeding €2,500
9	Section 50(6)(a)	A fine not exceeding €1,500
10	Section 51(2)(a)	In the case of a first offence, a fine not exceeding €800 In the case of a second or any subsequent offence, a fine not exceeding €1,500
11	Section 51(2)(b)	A fine not exceeding €800
12	Section 52(2)	A fine not exceeding €1,500
13	Section 53(2)(a)	A fine not exceeding €15,000
14	Section 53(2)(b)	A fine not exceeding €2,500
15	Section 54(4)	A fine not exceeding €1,500
16	Section 55(2)(a)	A fine not exceeding €1,500
17	Section 55(2)(b)	A fine not exceeding €800
18	Section 56(3)	A fine not exceeding €2,500
19	Section 64(2)	A fine not exceeding €2,500
20	Section 69A(5)	A fine not exceeding €2,500
21	Section 102(a)	A fine not exceeding €800
22	Section 102(b)	A fine not exceeding €1,500
23	Section 102(c)	A fine not exceeding €1,500
24	Section 106(3)(a)	A fine not exceeding €800
25	Section 106(3)(b)	A fine not exceeding €1,500
26	Section 107(5)	A fine not exceeding €1,500
27	Section 112(2)(a)	A fine not exceeding €2,500
28	Section 112(2)(b)	A fine not exceeding €10,000
29	Section 113(2)	A fine not exceeding €1,500
30	Section 115(6)	A fine not exceeding €1,500

## Part 2

## Act of 1968

Reference Number (1)	Provision (2)	Monetary Penalty (3)
1	Section 18(7)	A fine not exceeding €1,500
2	Section 23(2)	A fine not exceeding €1,500

## Part 3

## Road Traffic (Amendment) Act, 1984

Reference Number (1)	Provision (2)	Monetary Penalty (3)
1	Section 4	A fine not exceeding €1,500

## Part 4

## Act of 1994

Reference Number (1)	Provision (2)	Monetary Penalty (3)
1	Section 12(2)	A fine not exceeding €2,500
2	Section 13(2)	A fine not exceeding €2,500
3	Section 13(3)	A fine not exceeding €2,500
4	Section 14(2)	A fine not exceeding €2,500
5	Section 14(5)	A fine not exceeding €2,500
6	Section 15(2)	A fine not exceeding €2,500
7	Section 17(4)	A fine not exceeding €1,500
8	Section 20(3)	A fine not exceeding €2,500

(2) The following Table is substituted for the Table to section 15 of the Act of 1968:

## “TABLE

Where the excess weight is not less than 1,000 kilograms but is less than 2,000 kilograms ... ..	€200
Where the excess weight is not less than 2,000 kilograms but is less than 3,000 kilograms ... ..	€400
Where the excess weight is not less than 3,000 kilograms but is less than 4,000 kilograms ... ..	€800
Where the excess weight is not less than 4,000 kilograms but is less than 5,000 kilograms ... ..	€1,600
Where the excess weight is 5,000 kilograms or more ...	€3,000”.

[2002.] *Road Traffic Act, 2002.* [No. 12.]

(3) This section has effect in relation to offences committed after its commencement. S.23

**24.—**(1) The Minister may make regulations for the purpose of giving full effect to this Act and to the provisions inserted by this Act into the Acts and the Act of 1975. Regulations.

(2) If in any respect any difficulty arises during the period of 3 years from the commencement of a provision of this Act or an amendment of another Act effected by this Act in bringing the provision or amendment into operation, the Minister may by regulations do anything which appears to be necessary or expedient for bringing the provision or amendment into operation.

(3) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(4) Regulations under this Act (other than *subsection (2)*) shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling the regulations is passed by either such House within the next subsequent 21 days on which that House has sat after the regulations are laid before it, the regulations shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(5) Where the Minister proposes to make regulations under *subsection (2)*, he or she shall cause a draft of the regulations to be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.

**25.—**(1) Sections 97(1)(b), 102, 107, 110, 111, 115, 125 and 126 of the Principal Act are amended by the deletion, in each place where it occurs, of “Road Traffic Acts, 1961 to 1994,” and the substitution of “this Act”. Repeals and amendment of sections 97(1)(b), 102, 107, 110, 111, 115, 125 and 126 of Principal Act.

(2) Subsections (1) and (2) of section 36 and sections 86, 104 and 105 of the Principal Act and section 64 of the Act of 1968 are repealed as respects offences committed after the commencement of this section.

**26.—**(1) This Act may be cited as the Road Traffic Act, 2002.

Short title, commencement, construction and collective citation.

(2) This Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions, including the application of *section 25* to different statutory provisions specified therein.

(3) The Acts and this Act shall be construed together as one Act and may be cited together as the Road Traffic Acts, 1961 to 2002.

## FIRST SCHEDULE

## PENALTY POINTS

## PART 1

## CONTRAVENTION OF CERTAIN STATUTORY PROVISIONS

The offences specified in *column (2)* of this Part at *reference numbers 2, 3, 8, 9, 10, 11, 12 and 14* do not include offences on conviction of which the court is required to make a consequential disqualification order.

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
1	Offence under section 12 of Road Traffic Act, 1961	Using vehicle— (a) whose weight unladen exceeds maximum permitted weight, (b) whose weight laden exceeds maximum permitted weight, or (c) any part of which transmits to ground greater weight than maximum permitted weight.	1	3
2	Offence under section 18 of Road Traffic Act, 1961	Using vehicle without test certificate		5
3	Offence under section 20(10) of Road Traffic Act, 1961	Driving vehicle before remedying dangerous defect		3
4	Offence under section 38 of Road Traffic Act, 1961	Driving without a licence	2	5
5	Offence under section 39 of Road Traffic Act, 1961	Applying for a licence while disqualified for so applying	1	3
6	Offence under section 40 of Road Traffic Act, 1961	Failure to produce a licence to member of Garda Síochána	1	3
7	Offence under section 47 of Road Traffic Act, 1961	Exceeding a speed limit	2	4
8	Offence under section 48 of Road Traffic Act, 1961	Driving vehicle when unfit		3
9	Offence under section 52 of Road Traffic Act, 1961	Careless driving		5

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
10	Offence under section 54 of Road Traffic Act, 1961	Driving dangerously defective vehicle		5
11	Offence under section 55 of Road Traffic Act, 1961	Parking vehicle in dangerous position		5
12	Offence under section 56 of Road Traffic Act, 1961	Using vehicle without insurance or guarantee		5
13	Offence under section 96 of Road Traffic Act, 1961	Failure to stop vehicle at school warden sign	1	4
14	Offence under section 106 of Road Traffic Act, 1961	Breach of duties on occurrence of accident		5
15	Offence under section 109 of Road Traffic Act, 1961	Failure to stop vehicle when so required by member of Garda Síochána	2	5
16	Offence under section 115 of Road Traffic Act, 1961	Furnishing false or misleading particulars in connection with application for licence	1	3

## PART 2

CONTRAVENTION OF CERTAIN PROVISIONS OF ROAD TRAFFIC  
(CONSTRUCTION, EQUIPMENT AND USE OF VEHICLES) REGULATIONS,  
1963 TO 2002

In this Part—

(1) “offence” means an offence under section 11 of the Act of 1961,

(2) references to an article at *reference numbers 1 to 8* are references to an article of the Road Traffic (Construction, Equipment and Use of Vehicles) Regulations, 1963 (S.I. No. 190 of 1963),

(3) references to an article at *reference numbers 9 and 10* are references to an article of the Road Traffic (Construction, Equipment and Use of Vehicles) (Amendment) Regulations, 1971 (S.I. No. 96 of 1971),

(4) references to an article at *reference numbers 11 and 12* are references to an article of the Road Traffic (Construction, Equipment and Use of Vehicles) (Amendment) (No. 2) Regulations, 1978 (S.I. No. 360 of 1978),

[No. 12.] *Road Traffic Act, 2002.* [2002.]

SCH.1

(5) references to an article at *reference numbers 13 and 14* are references to an article of the Road Traffic (Construction, Equipment and Use of Vehicles) (Amendment) Regulations, 1985 (S.I. No. 158 of 1985),

(6) references to an article at *reference numbers 15 and 16* are references to an article of the Road Traffic (Construction, Equipment and Use of Vehicles) (Amendment) (No. 3) Regulations, 1991 (S.I. No. 359 of 1991), and

(7) references to an article at *reference numbers 17, 18 and 19* are references to an article of the Road Traffic (Construction, Equipment and Use of Vehicles) (Amendment) Regulations, 1993 (S.I. No. 299 of 1993).

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
1	Offence consisting of contravention of article 10	Using vehicle whose width exceeds maximum permitted width	1	3
2	Offence consisting of contravention of article 11	Using vehicle whose length exceeds maximum permitted length	1	3
3	Offence consisting of contravention of article 16	Using a vehicle with defective or worn tyres	2	4
4	Offence consisting of contravention of article 23	Using a vehicle from which driver has inadequate view of road and traffic	1	3
5	Offence consisting of contravention of article 24	Using vehicle whose windscreen is not of safety glass or gives distorted view	1	3
6	Offence consisting of contravention of article 25	Using vehicle not fitted with efficient windscreen wiper	1	3
7	Offence consisting of contravention of article 26	Using vehicle not fitted with adequate driving mirror	1	3
8	Offence consisting of contravention of article 46	Using vehicle whose brakes are inadequate	1	3
9	Offence consisting of contravention of article 3	Using vehicle not fitted with adequate anchorage points for safety belts	2	4
10	Offence consisting of contravention of article 4	Using vehicle not fitted with safety belts	2	4



Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
11	Offence consisting of contravention of article 10	Using motor cycle without wearing crash helmet	2	4
12	Offence consisting of contravention of article 11	Permitting passenger not wearing crash helmet to be carried on motor cycle	2	4
13	Offence consisting of contravention of article 4	Using vehicle not equipped with rear underrun protective device	1	3
14	Offence consisting of contravention of article 5	Using vehicle not equipped with side-guard	1	3
15	Offence consisting of contravention by driver of a vehicle of article 6	Using vehicle when driver not wearing safety belt or permitting person under 17 to occupy front seat when not wearing safety belt or appropriate child restraint	2	4
16	Offence consisting of contravention of article 7(3)	Driver of vehicle permitting person under 17 to occupy rear seat when not wearing safety belt or appropriate child restraint	2	4
17	Offence consisting of contravention of article 3	Using vehicle not equipped with speed limitation device	1	3
18	Offence consisting of contravention of article 4	Using vehicle equipped with speed limitation device not complying with specified requirements	1	3
19	Offence consisting of contravention of article 5	Using vehicle equipped with speed limitation device not sealed or not sealed in compliance with specified requirements	1	3
20	Offence consisting of contravention of article 4 of the Road Traffic (Construction, Equipment and Use of Vehicles) (Amendment) (No. 2) Regulations, 2002 (S.I. No. 93 of 2002)	Use by driver of vehicle of mobile phone while in the vehicle in a public place except when the vehicle is parked	1	3

## PART 3

## CONTRAVENTION OF CERTAIN PROVISIONS OF ROAD TRAFFIC (LIGHTING OF VEHICLES) REGULATIONS, 1963

In this Part—

(1) “offence” means an offence under section 11 of the Act of 1961, and

(2) the references to article 9 are references to article 9 of the Road Traffic (Lighting of Vehicles) Regulations, 1963 (S.I. No. 189 of 1963).

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
1	Offence consisting of contravention of sub-article (1) of article 9	Using vehicle not equipped with required lamps and identification mark lighting	1	3
2	Offence consisting of contravention of sub-article (2) or (3) of article 9	Using trailer not equipped with required lamps and identification mark lighting	1	3
3	Offence consisting of contravention of sub-article (4) of article 9	Using vehicle not equipped with required rear projecting load lamp or lateral projecting load lamp	1	3
4	Offence consisting of contravention of sub-article (5) of article 9	Using trailer not equipped with required marker lamp	1	3
5	Offence consisting of contravention of sub-article (6) of article 9	Using public service vehicle not equipped with required internal lighting	1	3
6	Offence consisting of contravention of sub-article (7) of article 9	Using vehicle not equipped with required direction indicators	1	3

## CONTRAVENTION OF CERTAIN PROVISIONS OF ROAD TRAFFIC (TRAFFIC AND PARKING) REGULATIONS, 1997

In this Part—

(1) “offence” means an offence under section 35 of the Act of 1994, and

(2) references to an article are references to an article of the Road Traffic (Traffic and Parking) Regulations, 1997 (S.I. No. 182 of 1997).

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
1	Offence consisting of contravention of article 7	Contravention of general speed restriction for vehicles	2	4
2	Offence consisting of contravention of article 8	Failure by vehicle to yield right of way	2	4
3	Offence consisting of contravention of article 9	Failure to drive vehicle on left	1	3
4	Offence consisting of contravention of article 10	Dangerous overtaking	2	5
5	Offence consisting of contravention of article 11	Contravention of requirements regarding driving of vehicles at road junctions	1	3
6	Offence consisting of contravention of article 12	Contravention of requirements regarding reversing of vehicles	1	3
7	Offence consisting of contravention of article 13	Contravention of restrictions on driving vehicle on footway	1	3
8	Offence consisting of contravention of article 14(5)	Contravention of restrictions on driving vehicle on cycle track	1	3
9	Offence consisting of contravention of article 15	Contravention of requirement to turn vehicle left onto a roundabout	1	3
10	Offence consisting of contravention of article 16	Contravention of prohibition of driving vehicle along or across median strip	1	3

SCH.1

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
11	Offence consisting of contravention of article 19	Failure of driver of vehicle to comply with signals given by members of Garda Síochána	1	3
12	Offence consisting of contravention of article 20	Failure to stop vehicle before stop sign or stop line	2	4
13	Offence consisting of contravention of article 21	Failure of vehicle to yield right of way at yield sign or yield line	2	4
14	Offence consisting of contravention of article 22	Failure of vehicle to comply with mandatory traffic signs	1	3
15	Offence consisting of contravention of article 23	Failure of vehicle to comply with prohibitory traffic signs	1	3
16	Offence consisting of contravention of article 24	Failure of vehicle to keep left at certain signs	1	3
17	Offence consisting of contravention of article 25	Crossing of white lines by vehicle	2	4
18	Offence consisting of contravention of article 26	Entry by vehicle on hatched marked area of roadway	1	3
19	Offence consisting of contravention of article 27	Failure by vehicle to comply with traffic lane markings	1	3
20	Offence consisting of contravention of article 28	Failure by vehicle to comply with traffic sign signifying that a roadway not be entered	1	3
21	Offence consisting of contravention of article 30	Failure by vehicle to obey traffic lights or to halt at traffic sign adjacent to such lights	2	5
22	Offence consisting of contravention of article 31	Failure by vehicle to obey traffic lights at railway level crossing or to halt at traffic sign adjacent to such lights	2	5
23	Offence consisting of contravention of sub-article (1)(a) of article 33	Prohibition on driving vehicle against traffic flow on motorway	2	4

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
24	Offence consisting of contravention of sub-article (1)(b) of article 33	Prohibition on driving vehicle on part of motorway not a carriageway	1	3
25	Offence consisting of contravention of sub-article (1)(d) of article 33	Prohibition of driving vehicles with 50 mph speed limit on outside traffic lane of carriageway of motorway	1	3
26	Offence consisting of contravention of article 34	Passing of sign indicating height restriction by vehicle to which sign applies	2	4

## PART 5

## CONTRAVENTION OF ARTICLE 6 OF ROAD TRAFFIC (LICENSING OF DRIVERS) REGULATIONS, 1999

In this Part, the reference to article 20 is a reference to article 20 of the Road Traffic (Licensing of Drivers) Regulations, 1999 (S.I. No. 352 of 1999).

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
1	Offence under section 42 of Road Traffic Act, 1961, consisting of contravention of sub-article (6)(b)(iv) of article 20	Holder of provisional licence driving vehicle (other than motor cycle) when not accompanied by and under supervision of qualified person	1	3

[No. 12.]                      *Road Traffic Act, 2002.*                      [2002.]

SECOND SCHEDULE

Section 9.

CONVENTION DRAWN UP ON THE BASIS OF ARTICLE K.3 OF THE TREATY  
ON EUROPEAN UNION ON DRIVING DISQUALIFICATIONS DONE AT  
BRUSSELS ON THE 17TH DAY OF JUNE 1998

CONVENTION

DRAWN UP ON THE BASIS OF ARTICLE K.3 OF THE  
TREATY ON EUROPEAN UNION ON DRIVING  
DISQUALIFICATIONS

THE HIGH CONTRACTING PARTIES to this Convention, Member States of the European Union,

REFERRING to the Council Act of 17 June 1998,

WHEREAS it is of the utmost importance for road safety within the European Union that a Union-wide effect be given to driving disqualification by adequate means;

WHEREAS as a result of the free movement of persons and the increasing international road traffic, disqualifications from driving are frequently imposed by a Member State other than that in which the driver normally resides;

WHEREAS having regard to Council Directive 91/439/EEC of 29 July 1991 on driving licences<sup>(1)</sup>, national provisions on the withdrawal, suspension and cancellation of driving licences should be applied by the Member State in whose territory the licence holder has his or her normal residence;

WHEREAS drivers disqualified from driving in a Member State other than that of their normal residence ought not to escape the effects of such measure when present in a Member State other than that of the offence;

WHEREAS the Member State of residence of the licence holder should therefore, in respect of offences considered particularly serious and under certain conditions, give effect to driving disqualifications imposed by another Member State by taking measures entailing the withdrawal, suspension or cancellation of his or her driving licence;

WHEREAS the fact that the Member State of residence has given effect to such a disqualification imposed by another Member State, should entail the consequence that the necessary measures are taken to penalize the act of driving a motor vehicle during the period of the disqualification under the laws of any Member State of the European Union in whose territory this may occur,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

For the purposes of this Convention:

(a) “driving disqualification” shall mean any measure related to the commission of a road traffic offence which results in

<sup>(1)</sup> O.J. L237, 24.8. 1991. P.1. Directive as last amended by Directive 97/26/EC (O.J. L150, 7.6. 1997, p.41).

withdrawal or suspension of the right to drive of a driver of a motor vehicle and which is no longer subject to a right of appeal. The measure may constitute either a primary, secondary or supplementary penalty or a safety measure and may have been taken either by a judicial authority or by an administrative authority;

- (b) “State of the offence” shall mean the Member State within the territory of which the road traffic offence that has given rise to a driving disqualification was committed;
- (c) “State of residence” shall mean the Member State within the territory of which the person who has been disqualified from driving is normally resident within the meaning of Article 9 of Directive 91/439/EEC;
- (d) “motor vehicle” shall mean any vehicle covered by the definition in Article 3(3) of Directive 91/439/EEC.

## ARTICLE 2

The Member States hereby undertake to cooperate, in accordance with the provisions of the Convention, with the objective that drivers who are disqualified from driving in a Member State other than that in which they normally reside should not escape the effects of their disqualification when they leave the State of the offence.

## ARTICLE 3

1. The State of the offence shall without delay notify the State of residence of any driving disqualification imposed for an offence arising from conduct referred to in the Annex.

2. Each Member State may agree with other Member States that notification to it pursuant to paragraph 1 shall not take place in certain cases in which Article 6(2)(a) would apply.

## ARTICLE 4

1. Subject to Article 6, the State of residence which has been notified pursuant to Article 3 shall without delay give effect to the decision imposing disqualification from driving taken in the State of the offence in one of the following ways:

- (a) by directly executing the decision imposing disqualification from driving, while taking into account any part of the period of disqualification imposed by the State of the offence which has already been served in the latter, or
- (b) by executing the decision imposing disqualification from driving via a judicial or administrative decision in accordance with the conditions laid down in paragraph 2, or
- (c) by converting the decision imposing disqualification from driving into a judicial or administrative decision of its own, thus, without prejudice to Article 11, substituting for the decision by the State of the offence a new decision in accordance with the conditions laid down in paragraph 3.

2. If it applies the procedure laid down in paragraph 1(b) the State of residence:

- (a) shall take into account any part of the period of the driving disqualification imposed by the State of the offence which has already been served in that State;
- (b) may reduce the duration of the driving disqualification but only to the maximum term provided for acts of the same kind under its national law;
- (c) shall not extend the duration of the driving disqualification imposed by the State of the offence.

3. If it applies the procedure laid down in paragraph 1(c) the State of residence:

- (a) shall be bound by the facts as established insofar as they are stated explicitly or implicitly in the decision imposing disqualification from driving in the State of the offence;
- (b) shall take into account any part of the period of the driving disqualification imposed by the State of the offence which has already been served in that State;
- (c) may reduce the duration of the driving disqualification to align it to the duration which according to its national law would have been applied for the case in question;
- (d) shall not extend the duration of the driving disqualification imposed by the State of the offence;
- (e) may not replace the driving disqualification by a fine or any other measure.

4. When giving effect to a driving disqualification under this Article, the State of residence shall, where necessary, determine a date from which it will enforce the driving disqualification.

5. When giving the notification referred to in Article 15(2), each Member State shall indicate in a declaration which of the procedures described in paragraph 1 it intends to apply in its capacity as a State of residence. The declaration made may be replaced by a new declaration at any time.

#### ARTICLE 5

Giving effect to a driving disqualification pursuant to Article 4 shall be without prejudice to any additional road safety measures that the State of residence may take under its own legislation.

#### ARTICLE 6

1. The State of residence shall refuse to give effect to the driving disqualification where:

- (a) the driving disqualification has already been fully enforced in the State of the offence;
- (b) the offender has already had a driving disqualification imposed on him in the State of residence for the same



[2002.] *Road Traffic Act, 2002.* [No. 12.]

acts and that disqualification has been or is being SCH.2 enforced;

- (c) the offender would have benefited from a general pardon or amnesty in the State of residence if the acts had been committed within the territory of that State;
- (d) the period of limitation for the measure would have expired under its own legislation;
- (e) in the circumstances of the particular case, after receiving any information supplied under Article 8, it considers that the person concerned has not had an adequate opportunity to defend himself.

2. The State of residence may refuse to give effect to the driving disqualification if:

- (a) the conduct for which the driving disqualification has been imposed in the State of the offence does not constitute an offence under the law of the State of residence;
- (b) the remaining period of disqualification which could be enforced in the State of residence is less than one month;
- (c) driving disqualification is not a measure available under the legislation of the State of residence for the acts giving rise to the driving disqualification imposed by the State of the offence.

3. When giving the notification referred to in Article 15(2) or at any other time, any Member State may declare that it will always apply paragraph 2 of this Article in part or in full. When such a declaration has been made, the other Member States shall not be obliged to communicate driving disqualifications such as referred to in that declaration pursuant to Article 3 to the Member State that has made the declaration. Any Member State may withdraw its declaration at any time.

#### ARTICLE 7

1. The competent authority of the State of the offence shall forward the notification referred to in Article 3 to the central authority of the State of residence.

2. For the purposes of paragraph 1, when giving the notification referred to in Article 15(2), each Member State shall indicate:

- (a) the central authority or central authorities which it designates;
- (b) the competent authorities responsible for submitting the notifications referred to in Article 3.

#### ARTICLE 8

1. The notification referred to in Article 3 shall be accompanied by:

- details serving to locate the person disqualified from the driving;

- the original or a certified copy of the decision imposing a driving disqualification;
- a brief statement of the circumstances and a reference to the legal provisions in the State of the offence on the basis of which the driving disqualification was imposed, if these are not given in the decision;
- an attestation that it is final;
- information regarding the enforcement of the driving disqualification in the State of the offence, including the length of the disqualification and, where known, the dates on which the disqualification starts and expires;
- the driving licence, if it has been seized.

2. Where the person on whom the driving disqualification has been imposed did not appear personally or was not represented at the proceedings, notifications pursuant to Article 3 must be accompanied by evidence that the person has been duly notified of the proceedings in accordance with the law of the State of the offence.

3. If the information communicated in accordance with paragraphs 1 and 2 is found to be insufficient to allow a decision to be taken pursuant to this Convention, in particular where, in the circumstances of the particular case, there is doubt whether the person concerned has had an adequate opportunity to defend himself, the competent authorities of the State of residence shall request the competent authorities of the State of the offence to provide the necessary supplementary information without delay.

#### ARTICLE 9

1. Subject to paragraphs 2 and 3, no translation of the notifications referred to in Article 3 or of the accompanying material referred to in Article 8 or of any other documents relating to the application of this Convention shall be required.

2. Any Member State may, when giving the notification referred to in Article 15(2), declare that the documents referred to in paragraph 1 forwarded to it by the State of the offence must be accompanied by a translation into one of the official languages of the institutions of the European Communities indicated in its declaration.

3. Except for the documents referred to in the second indent of Article 8(1), the documents referred to in paragraph 1 of this Article need not be certified.

#### ARTICLE 10

The State of residence shall inform the State of the offence of any decision taken in respect of a notification given pursuant to Article 3 and in respect of enforcement and, where it refuses to give effect to a driving disqualification pursuant to Article 6, of the reasons for its refusal.

## ARTICLE 11

SCH.2

1. The right of the State of the offence to execute in its territory the full period of the driving disqualification determined by the State of the offence shall not be affected by the decision of the State of residence.

2. When giving the notification referred to in Article 15(2), any Member State may indicate that it will not apply paragraph 1 of this Article in its capacity as the State of the offence.

3. The State of the offence and State of residence shall exercise their responsibilities under the Convention in such a way as to ensure that the total period of disqualification, taking into account any period of disqualification which is served for the offence concerned in the State of residence, does not exceed the period of disqualification originally determined by the State of the offence.

4. When notifying the person concerned of the decision to disqualify, a State of the offence which proposes to apply paragraph 1 shall at the same time inform the person of this fact, and shall confirm in the notification given in accordance with Article 3 to the State of residence that it has done so.

## ARTICLE 12

Each Member State shall adopt the measures necessary to enable it to penalize the driving of a motor vehicle in its territory when the driver is disqualified from driving by the State of residence in implementation of this Convention.

## ARTICLE 13

Costs incurred in implementing this Convention shall be borne in the Member State in which they occur.

## ARTICLE 14

1. The Court of Justice of the European Communities shall have jurisdiction to rule on any dispute between Member States regarding the interpretation or the application of this Convention whenever such dispute cannot be settled by the Council within six months of its being referred to the Council by one of its members. The Court shall also have jurisdiction to rule on any dispute between Member States and the Commission regarding the interpretation or application of this Convention.

2. Any Member State shall be able to accept, through a declaration made when giving the notification referred to in Article 15(2) or at any later date, the jurisdiction of the Court of Justice to give preliminary rulings on the interpretation of this Convention.

3. A Member State making a declaration pursuant to paragraph 2 shall specify that either:

- (a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of this Convention if that court

or tribunal considers that a decision on the question is necessary to enable it to give judgment, or

- (b) any court or tribunal of that State may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of this Convention if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

4. The State of the Court of Justice of the European Community and its Rules of Procedure shall apply. Any Member State, whether or not it has made a declaration pursuant to paragraph 2, shall be entitled to submit statements of case or written observations to the Court in cases which arise under paragraph 3.

#### ARTICLE 15

1. This Convention shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the Secretary-General of the Council of the European Union of the completion of their constitutional requirements for adopting this Convention.

3. This Convention shall enter into force ninety days after the notification referred to in paragraph 2 by the Member State which, being a Member of the European Union on the date of the adoption by the Council of the act drawing up this Convention, is the last to fulfil this formality.

4. Until this Convention enters into force, any Member State may, when giving the notification referred to in paragraph 2 or at any later date, declare that with respect to itself the Convention, except Article 14, shall apply to its relations with Member States that have made the same declaration. Such declarations shall apply as from ninety days after the date of their deposit.

5. This Convention and declarations made in respect of it shall be applicable only to offences committed after the entry into force of the Convention or from the date on which the Convention has become applicable between the Member States concerned.

#### ARTICLE 16

1. This Convention shall be open to accession by any State that becomes a member of the European Union.

2. The text of this Convention in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.

3. Instruments of accession shall be deposited with the Secretary-General of the Council of the European Union.

4. This Convention shall enter into force with respect to any State that accedes to it ninety days after the deposit of its instruments of accession or on the date of entry into force of the Convention if it has not already entered into force at the time of expiry of those ninety days.

#### ARTICLE 17

No reservation may be entered in respect of this Convention.

#### ARTICLE 18

As regards the United Kingdom, the provisions of this Convention shall apply only to the United Kingdom of Great Britain and Northern Ireland.

#### ARTICLE 19

1. The Secretary-General of the Council of the European Union shall act as depositary of this Convention.

2. The depositary shall publish in the Official Journal of the European Communities information on the progress of adoptions, accessions and declarations, and also any other notification concerning this Convention.

#### ANNEX

##### CONDUCT COVERED BY ARTICLE 3 OF THE CONVENTION

1. Reckless or dangerous driving (whether or not resulting in death, injury or serious risk).

2. Wilful failure to carry out the obligations placed on drivers after being involved in road accidents (hit-and-run driving).

3. Driving a vehicle while under the influence of alcohol or other substances affecting or diminishing the mental and physical abilities of a driver. Refusal to submit to alcohol and drug tests.

4. Driving a vehicle faster than the permitted speed.

5. Driving a vehicle whilst disqualified.

6. Other conduct constituting an offence for which a driving disqualification has been imposed by the State of the offence

— of a duration of six months or more,

— of a duration of less than six months where that has been agreed bilaterally between the Member States concerned.