EXPLANATORY MEMORANDUM TO

THE ROAD TRAFFIC (FIXED PENALTY) (OFFENCES) (AMENDMENT) ORDER (NORTHERN IRELAND) 2023

2023 No. 70

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Order (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 57(2) of the Road Traffic Offenders (Northern Ireland) Order 1996 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of this Statutory Rule ("SR") is to provide for low level careless driving behaviours to be disposed of by means of an endorseable (3 points) fixed penalty notice (FPN). Accordingly, Schedule 1 to the Road Traffic (Fixed Penalty) (Offences) Order (Northern Ireland) 1997 is amended by this Order to specify an additional offence relating to driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or public place.

3. Background

3.1. The principal aim of introducing a fixed penalty notice for careless driving is to improve the efficiency of the current enforcement regime and to tackle low level offending. Fixed penalties are a recognised way of delivering proportionate justice for low level offending, as they offer a quick and effective disposal option. They also provide a swift and simple deterrent, reduce the amount of time that police officers spend completing paperwork and attending court and reduce the burden on prosecution services.

3.2. The new fixed penalty for careless driving will also be open to the offer of remedial training as an alternative means of disposal, in order to gain longer-term behavioural change. The Safe & Considerate Driving course (SCD) is already in use in Northern Ireland as an alternative to prosecution for drivers who are referred for offences relating to driving without due care and attention.

3.3. There would be some circumstances where remedial training would not be offered to an offender. These include when other endorseable offences are committed and the matter must be dealt with by prosecution (e.g., no insurance), or where an offender has already attended the training within the previous 3 years. The circumstances also include aggressive and deliberate careless driving.

4. Consultation

4.1. A public consultation to 'Consider making careless driving a fixed penalty notice offence' issued on 23 November 2021 and remained open for a period of 8 weeks - closing on 18 January 2022.

4.2. The consultation paper assessed the offence of careless driving in terms of behaviours, volume of offending and the number of associated deaths and injuries in Northern Ireland. It also considered the current legislative process and explored how this might be improved with the introduction of a new fixed penalty open to the offer of remedial training. The paper clarified that the proposed FPN would not apply to the most serious examples of careless driving offending; these cases would continue to go through court as appropriate, where offenders may face higher penalties.

4.3. A synopsis of responses to the consultation was published on 10 March 2022. The headline figures show that there were a total of 622 responses. Some 77% of respondents agreed that careless driving should become a FPN offence open to the offer of remedial training and 68% agreed that the careless driving FPN should carry 3 penalty points and a fine of £100.

5. Equality Impact

5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise on the proposals and concluded that they do not have implications for equality of opportunity. The measures will not affect any group disproportionately and the Department therefore considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. A Regulatory Impact Screening Assessment was carried out and found no undue impacts arising from the proposed new fixed penalty arrangements. The new arrangements will only affect those drivers and riders who break what is an already existing law and these costs and penalty points can be avoided by observing safe driver behaviour.

7. Financial Implications

7.1 The use of fixed penalties as a disposal method saves public money and time that otherwise would be spent in referring minor offences to the Public Prosecution Service (PPS) and potentially onto the NI Courts & Tribunals Service.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has carried out a Human Rights Act Screening Analysis and no human rights issues have been identified. The policy proposal did not engage any Convention rights and is compatible with Article 2(1) of the Protocol on Ireland/Northern Ireland.

9. EU Implications

9.1. This Statutory Rule only applies to Northern Ireland and has no NI Protocol implications.

10. Parity or replicatory measure

10.1 The SR is based on similar provisions contained in the GB Statutory Instrument 2013/1569.

11. Additional information

11.1. Not applicable.