

Cyclists (Protective Headgear) Bill

[AS INTRODUCED]

CONTENTS

Protective headgear

1. Requirement to wear protective headgear
2. Regulations

Penalty charges

3. Penalty charges
4. Issue of penalty charge notice
5. First contravention: further provision
6. Waiver
7. Register of Penalty Charges

Adjudicators

8. Appeal to an adjudicator
9. Adjudicators
10. Proceedings before adjudicators
11. Further provisions relating to adjudicators

Promotion of protective headgear

12. Campaign

General

13. Regulations and orders
14. Service of documents
15. Interpretation
16. Commencement
17. Short title

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B I L L

TO

Require people to wear protective headgear while riding cycles; to prescribe penalties for contraventions; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Protective headgear

Requirement to wear protective headgear

1.—(1) No person aged 16 years or over shall without reasonable excuse ride a cycle—

5 (a) on a road, or

(b) in any open space,

unless the person is wearing protective headgear of such description as is specified in regulations, in such manner as is so specified.

10 (2) No person who has responsibility for a child shall without reasonable excuse cause or permit the child to ride a cycle—

(a) on a road, or

(b) in any open space,

unless the child is wearing protective headgear of such description as is specified in regulations, in such manner as is so specified.

15 (3) A person has responsibility for a child if that person—

(a) has parental responsibilities in relation to the child as described in Article 5 of the Children (Northern Ireland) Order 1995 (NI 2), or

(b) has care of the child or is, otherwise than by virtue of that Article, legally obliged to maintain the child.

20 (4) A contravention of this section shall not be a crime.

Regulations

2.—(1) The Department shall by regulations—

Cyclists (Protective Headgear)

- (a) prescribe for the purposes of section 1 (by reference to shape, construction, appropriateness for wearer and such other qualities as the Department thinks fit the descriptions of protective headgear to be worn; and
 - (b) prescribe for those purposes the manner in which such headgear is to be worn. 5
- (2) Before making any regulations under this section the Department shall consult such representative organisations as it thinks fit.

Penalty charges

Penalty charges 10

3.—(1) Subject to section 6, a penalty charge is payable by a person who is issued with a penalty charge notice which has not ceased to have effect by virtue of section 8(7).

(2) The penalty charge payable in respect of a contravention of section 1 is £50.

(3) The Department may by order vary the amount of the penalty charge. 15

Issue of penalty charge notice

4.—(1) Where a constable has reason to believe that a person has committed a contravention of section 1 the constable may issue a penalty charge notice to the person who appears to the constable to have committed the contravention.

(2) Where a constable is prevented from issuing a penalty charge notice because the person to whom the notice should be given— 20

(a) is on or in a moving cycle or other vehicle or is otherwise unavailable to receive the notice; or

(b) in the case of a contravention of section 1(2), is not present at the time the constable's belief was formed; 25

the police may issue a penalty charge notice produced by the constable.

(3) The police may commence proceedings for the summary recovery of the penalty charge if it is not paid within the relevant period.

(4) A penalty charge notice under this section shall state—

(a) the contravention believed to have been committed; 30

(b) the amount of the penalty charge which is payable;

(c) that if the penalty charge is not paid within the relevant period, the police may commence proceedings for the summary recovery of the amount payable;

(d) how payment of the penalty charge may be made; 35

(e) that there is a right of appeal to an adjudicator under section 8;

(f) the date of the notice;

(g) that, unless the person receives notification under section 5(2), the penalty charge must be paid within 28 days of the date of the penalty charge notice; and 40

(h) that if a person receives notification under section 5(2) and such person acts in accordance with section 6, the penalty charge will be waived.

(5) In this section, “the relevant period” means—

(a) if no notice is served in accordance with section 8(1), within 28 days of the date of the penalty charge notice;

5 (b) if a notice is served in accordance with section 8(1) and the appeal is rejected, within 14 days of the date on which notice of the adjudicator’s decision is served under section 8(5).

First contravention: further provision

10 **5.**—(1) A constable who issues a penalty charge notice under section 4 shall consult the Register within three days to determine whether the contravention in respect of which the notice was issued is a first contravention of this Act.

(2) If the notice so issued relates to a first contravention, the police shall, within one day of consulting the Register, notify the person to whom the penalty charge notice was issued—

15 (a) that the penalty charge will be waived if the person acts in accordance with section 6;

(b) of the address of the police station at which that person may comply with section 6.

Waiver

20 **6.** Where a penalty charge notice is issued to a person for the first time, the requirement to pay the penalty charge in respect of that notice shall be waived if, within 28 days of the date of the penalty charge notice, the person to whom the notice has been issued produces at the police station specified in the notice—

(a) in the case of a contravention of section 1(1), protective headgear for that person’s use together with a receipt for its purchase; and

25 (b) in the case of a contravention of section 1(2), protective headgear for use by the child in respect of whom the penalty charge notice was issued together with a receipt for its purchase.

Register of Penalty Charges

30 **7.**—(1) The Police Service of Northern Ireland shall establish and maintain a register to be known as the Register of Penalty Charges.

(2) The Register shall record the following information—

(a) the name of each person who has been issued with a penalty charge notice;

(b) the amount payable; and

35 (c) the date of every penalty charge notice.

(3) The Department may make regulations concerning the establishment and maintenance of the Register.

Adjudicators

Appeal to an adjudicator

40 **8.**—(1) A person who is liable to pay a penalty charge under section 3 may by notice of appeal in writing served on the person prescribed in regulations made

Cyclists (Protective Headgear)

under section 10(3)(a) within 21 days of the date of the penalty charge notice, or such longer period as an adjudicator may allow, appeal to an adjudicator on any of the grounds specified in subsection (2).

(2) The grounds are—

- (a) that for the reasons stated in the notice of appeal there was not a contravention of section 1 of this Act; 5
- (b) where the penalty charge includes any amount that has been waived under section 6, that such amount is not payable;
- (c) that for the reasons stated in the notice of appeal the penalty charge notice did not state all the information required by section 4(4). 10

(3) On an appeal under this section, the adjudicator shall consider the notice of appeal and any additional representations which are made by the appellant on any grounds stated in the notice.

(4) If the adjudicator concludes that any ground has been established the adjudicator shall accept the appeal. 15

(5) The adjudicator shall serve notice of the adjudicator's decision on the appellant and the Police Service of Northern Ireland.

(6) Where a person appeals to an adjudicator in relation to a penalty charge notice, the requirement on the appellant to pay the penalty charge in respect of that penalty charge notice shall be suspended until the date on which the adjudicator's decision is served under subsection (5). 20

(7) If the adjudicator accepts the appeal, the penalty charge notice which is the subject of the appeal shall cease to have effect on the date on which the adjudicator's decision is served under subsection (5).

(8) If the adjudicator rejects the appeal the penalty charge shall be payable within 14 days of the date on which the adjudicator's decision is served under subsection (5). 25

Adjudicators

9.—(1) The Northern Ireland Judicial Appointments Commission shall appoint persons to act as adjudicators for the purposes of this Act. 30

(2) A person shall not be appointed as an adjudicator unless such person is a barrister or solicitor of at least five years' standing.

(3) A person's appointment as an adjudicator shall be for such term not exceeding five years as may be specified in such person's instrument of appointment. 35

(4) An adjudicator shall hold and vacate office under the terms of the adjudicator's instrument of appointment.

(5) An adjudicator may resign office by notice in writing to the Northern Ireland Judicial Appointments Commission.

(6) The Northern Ireland Judicial Appointments Commission may remove an adjudicator from office, but an adjudicator may only be so removed on the grounds of misbehaviour or inability to perform the functions of the office. 40

(7) An adjudicator who ceases to hold office otherwise than under subsection (6) is eligible for re-appointment.

Proceedings before adjudicators

5 **10.**—(1) The Department of Justice shall make regulations providing for the procedure to be followed in relation to proceedings before adjudicators.

(2) The regulations shall provide for any appeal to be disposed of at an oral hearing if the appellant so requests.

(3) The regulations may include provision—

- 10 (a) as to the manner in which appeals to adjudicators are to be made (including to whom they are to be made) or withdrawn;
- (b) authorising an appeal to an adjudicator to be disposed of on the basis of written representations unless the appellant requests an oral hearing;
- (c) as to the procedure to be followed before the hearing of an appeal by an adjudicator;
- 15 (d) requiring any such hearing to be held in public except in circumstances specified in the regulations;
- (e) as to the persons entitled to appear and be heard on behalf of the parties;
- (f) as to evidence at the hearing;
- (g) as to the adjournment of hearings;
- 20 (h) for the award of costs in circumstances specified in the regulations;
- (i) for the settlement of costs by such method as may be specified in the regulations;
- (j) authorising decisions of adjudicators to be reserved;
- (k) authorising or requiring adjudicators—
- 25 (i) to revise or set aside decisions;
- (ii) to revoke or vary orders made by them;
- (l) requiring decisions of, and orders made by, adjudicators to be recorded;
- (m) authorising the correction of errors in the Register;
- (n) requiring service of—
- 30 (i) notice of decisions of adjudicators;
- (ii) notice of any corrections made by adjudicators in their decisions;
- (o) as to the place where the hearings may take place.

(4) Subject to any provision made by the regulations, in any proceedings the procedure may be regulated by the adjudicator.

35 **Further provisions relating to adjudicators**

11.—(1) The Department of Justice shall—

- (a) make arrangements for the provision of accommodation and administrative staff and facilities for adjudicators;
- (b) determine the places where adjudicators are to sit; and
- 40 (c) at least once in every 12 months publish information on the discharge by the adjudicators of their functions under this Act.

Cyclists (Protective Headgear)

(2) Subject to any regulations made under section 10(3)(h), the Department shall defray the costs of the adjudication process under this Act (including the remuneration of the adjudicators).

(3) An adjudicator shall provide the Department of Justice with such information on the discharge of the adjudicator's functions under this Act as the Department of Justice may determine. 5

Promotion of protective headgear

Campaign

12.—(1) The Department shall within six months of the date on which this section comes into operation prepare a programme of measures designed to raise public awareness of the provisions of this Act and to promote the wearing of protective headgear by cyclists. 10

(2) The Department shall secure that the programme prepared in accordance with subsection (1)—

(a) commences as soon as reasonably practicable after the programme has been prepared, and 15

(b) continues throughout the period between such commencement and the coming into operation of section 1 of this Act.

General

Regulations and orders 20

13.—(1) Regulations and orders made under this Act shall be statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (NI 12).

(2) Regulations made under this Act shall be subject to negative resolution.

(3) An order made under section 3(3) shall not be made unless a draft has been laid before, and approved by a resolution of, the Assembly. 25

Service of documents

14. For the purposes of this Act, section 24 of the Interpretation Act (Northern Ireland) 1954 (c. 33) (service of documents) shall apply as if the word "registering" were omitted from subsection (1).

Interpretation 30

15.—(1) In this Act, unless the context otherwise requires—

"adjudicator" means a person appointed under section 9;

"child" means a person under the age of 16;

"cycle" means a bicycle, a tricycle or a cycle having four or more wheels not being in any case a motor vehicle; 35

"the Department" means the Department of the Environment;

"open space" has the meaning given by section 20 of the Open Spaces Act 1906 (c. 25);

Cyclists (Protective Headgear)

“protective headgear” means protective headgear of a description prescribed in regulations made under section 2 and which is appropriate for the relevant person;

“the Register” means the register established under section 7;

5 “relevant person” means—

(a) a person who has committed a contravention of section 1(1); or

(b) a child in respect of whom a person has committed a contravention of section 1(2);

10 “road” has the meaning given by Article 2(1) of the Roads (Northern Ireland) Order 1993 (SI 3160);

“summary recovery” means a recovery as a civil debt under Article 62 of the Magistrates’ Courts (Northern Ireland) Order 1981 (NI 26);

(2) In this Act “within” a stated number of days means before the end of that number of days.

15 **Commencement**

16.—(1) Section 12 shall come into operation on Royal Assent to this Act.

(2) Sections 2, 7, 9 to 11, 13 and 15 shall come into operation two years after Royal Assent to this Act.

20 (3) Sections 1, 3 to 6, 8 and 14 shall come into operation three years after Royal Assent to this Act.

Short title

17. This Act may be cited as the Cyclists (Protective Headgear) Act (Northern Ireland) 2011.