



Department of the  
**Environment**  
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# **CONSULTATION ON THE PROPOSAL FOR THE REINTRODUCTION OF A FIXED PENALTY FOR AN OFFENCE RELATED TO GOODS VEHICLE LICENSING**

## **SYNOPSIS OF CONSULTATION RESPONSES**

**NOVEMBER 2012**

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This synopsis is divided into the following sections:

- Section 1 – Introduction & Overview;
- Section 2 - Consultation questions, responses received & Departmental comments on points raised; and
- Section 3 – List of Respondents.

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### **Further copies of this synopsis can be obtained by contacting:**

Michael O'Neill  
Road Safety & Vehicle Regulation Division  
Department of the Environment  
Clarence Court  
10-18 Adelaide Street  
Town Parks  
BELFAST  
BT2 8GB

Telephone: 02890 540922

Email: [michael.oneill@doeni.gov.uk](mailto:michael.oneill@doeni.gov.uk)

This document can also be accessed through the Department's website at [www.doeni.gov.uk](http://www.doeni.gov.uk)

## **SECTION 1: INTRODUCTION & OVERVIEW**

The Department of the Environment issued a consultation document on 26 October 2012 which ran until 23 November 2012.

Its purpose was to seek views on the Department of the Environment's proposal to reintroduce a fixed penalty notice (FPN) for the offence contained within section 1(6) of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 - of 'using a goods vehicle without an operator's licence.'

In total, 10 consultees responded, 5 of who simply noted/acknowledged the proposals but did not express any views on them. The substantive views of the remaining 5 consultees have been considered and are detailed in Section 2.

## SECTION 2: CONSULTATION QUESTIONS, RESPONSES RECEIVED & DEPARTMENTAL RESPONSES

QUESTION 1	
1	Do you agree that a fixed penalty should be reintroduced for the offence of ‘using a goods vehicle without an operator’s licence?’
<p><b>Yes – 80% (4)</b></p> <p><b>No – 20% (1)</b></p>	<p>The majority of respondents agreed that a FPN should be reintroduced for the offence in question.</p> <p>Supporting comments included the view that it would reduce court time and police officer preparing prosecution files.</p> <p>The one respondent who disagreed was of the view that the FPN would be inappropriately issued to the driver of the vehicle, rather than the operator. The same respondent was of the view that operators who have not applied for their licence should be notified in writing that their vehicles will be impounded if they are detected.</p> <p><b>Department’s Response</b></p> <p><b>Under section 58(2) of the GVA 'the person whose servant or agent the driver is, shall be deemed to be the person using the vehicle.' It is the Department’s intention that FPNs will be issued to the user (operator) of the vehicle. If the driver of the vehicle is also the user, a fixed penalty can be administered at the roadside. If the driver of the vehicle is not the user the Department has the powers to issue a conditional offer to the user.</b></p> <p><b>Accordingly, the operator is deemed to have been using the vehicle in contravention of the offence provision in section 1(6). A conditional offer of a FPN can then be sent to the operator in accordance with Art 80(1A) of the Offenders Order, which provides as follows;-</b></p> <p><b>“(1A) Where–</b></p>

		<p>(a)a vehicle examiner has reason to believe that a fixed penalty offence has been committed, and  (b)no fixed penalty notice in respect of the offence has been given under Article 60 or fixed to a vehicle under Article 67, a notice under this Article may be sent to the alleged offender by the Department.”</p> <p>In addition to Advisory Letters, Prohibition &amp; Impounding, the issuance of FPNs for the offence in question is intended to be an important means for Driver &amp; Vehicle Agency to address the enforcement of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 (the GVA).</p> <p>The Department, therefore, intends to amend the following pieces of legislation to reintroduce the Fixed Penalty:</p> <ul style="list-style-type: none"> <li>• The Road Traffic (Fixed Penalty) Order (Northern Ireland) 2007; and</li> <li>• The Road Traffic (Fixed Penalty) (Offences) Order (Northern Ireland) 1997.</li> </ul>
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**QUESTION 2**

2	Do agree that the level of fine for the offence (£200) is set at an appropriate level?	
	Yes – 60% (3)	The majority of respondents agreed that the level of the fine was appropriate.
	No – 40% (2)	<p>One of the respondents who disagreed was of the view that the minimum fine for this offence should be £5,000 and the second respondent was of the view that the Department may levy the fine on the driver of the vehicle rather than the operator.</p> <p><b>Department’s Response</b></p> <p>As outlined above the Department does not intend to levy the FPN on the driver of the vehicle, unless the driver is also the operator, but rather the vehicle’s operator.</p> <p>The level of this FPN (£200) is consistent with the level of other FPNs that relate to legislative offences that attract a maximum fine of level 5 (£5,000) on the standard scale.</p> <p>The Department, therefore, intends to amend the Road Traffic (Fixed Penalty) Order (Northern Ireland) 2007 to set the fee at the agreed rate of £200.</p>



### SECTION 3: LIST OF RESPONDENTS

The Department received 10 responses to the Consultation:

Northern Ireland Ombudsman
Employers for Disability NI
NI Judicial Appointments Commission
Freight Transport Association
Commissioner for Older People for NI
NI Electricity
Police Service NI
Disability Action
Oliver Transport Services
Road Haulage Association