

**Details of the new Fixed Charge System from 3 April 2006 – Section 12 of the Road Traffic Act 2002 substitutes a new Section 3 of the Local Authorities (Traffic Wardens) Act 1975.**

**THE PROVISIONS OF THE 2002 ACT SHOULD BE READ IN FULL – THE DETAILS BELOW ARE JUST AN OUTLINE.**

In brief, under the fixed charge system, 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, a notice on the person 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. "

Where a fixed charge notice is served on the registered owner of a vehicle or affixed to such vehicle and 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 the Traffic Management Dept., City Hall, Limerick, a document in the prescribed form, (see below for Statement of Nomination document) 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 maybe 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 at (i). A person who contravenes this requirement to give information shall be liable on summary conviction to a fine not exceeding €800.

**Role of Local Authority :**

*(Please note role of local authority to issue Fixed Charge Notice following receipt of Statement of Nomination of name and address of driver of vehicle)*

Where a document as above 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 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. The registered owner is not

required to pay a fixed charge where s/he has completed a Statement of Nomination document.

**Cycle of process begins anew :**

The timeframe of 56 days and the option to pay the fixed charge in lieu of going to court then commences to run in respect of the notice issued to the person nominated and no prosecution will be initiated against the registered owner in respect of the alleged offence.

Please see section 19 of the Road Traffic Act 2004 for circumstances where registered owner is not an individual.

**Onus on registered owner :**

Where the registered owner does not furnish a Statement of Nomination document within 28 days then in a prosecution of that registered owner for the alleged offence to which the notice 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.

The 2002 Act provides also that failure of a registered owner to furnish details to nominate name and address of driver, within 28 days, is an offence and registered owner is liable to a fine not exceeding €1,000.

**Offence to remove or interfere with notice affixed to a vehicle:**

It is an offence for any person, apart from the person to whom the notice applies, to remove or interfere with a fixed charge notice affixed to a vehicle by a traffic warden. A person who contravenes this shall be liable on summary conviction to a fine not exceeding €800.

**Payment of Fixed Charge :**

When a fixed charge notice is served or affixed by a traffic warden, the person may, during the period of 28 days beginning on the date of the notice, make a payment of the specified amount of fixed charge accompanied by the notice, duly completed. If the person does not make payment within 28 days the person may, during the next 28 day period, pay the specified amount of fixed charge plus 50%. A prosecution will not be instituted if the appropriate amount of fixed charge is made within that 56 day period. Local authorities must issue a receipt in respect of fixed payments received. The Road Traffic Act 2002 provides that 'no payment so received shall in any circumstances be recoverable by the person who made it' section 3(8)(b) of 1975 Act as inserted by section 12 of 2002 Act.

If payment is not received within that 56 day period, court proceedings are initiated.

## APPENDIX

For guide purposes please see the following of new Local Authorities (Traffic Wardens) Act 1975 (Fixed Charge Offences) Regulations 2006. The 1997 regulations will be revoked effective 3 April 2006

### **€80 fixed charge Offence under section 35(5) of the Road Traffic Act 1994**

<b>Road Traffic (Traffic and Parking) Regulations 1997 (S.I. No. 182 of 1997)</b>	
<b>Article</b>	<b>Description of Offence</b>
44(1)	Parking a vehicle in a disabled persons parking bay in contravention of article 44.

**€60 fixed charge**, in respect of an offence under section 73 (requiring a licence to be fixed to and exhibited on a vehicle) of the Finance Act 1976,

### **€40 fixed charge**

#### **Offences under the Road Traffic Act 1961**

<b>Section</b>	<b>Description of Offence</b>
84 (inserted by s.15 of Road Traffic Act 2002 and amended by s.29 of the Act of 2004)	Contravention of prohibition on street service vehicle from standing for hire at a place other than an appointed stand.
86	Contravention of bye-law made under section 86 in relation to stopping places and stands for omnibuses.
101(7B)(inserted by s.49 of Act of 1994)	Contravention of bye-law made under section 101 in relation to the use of a car park provided by a local authority.

### Offence under the Road Traffic Act 1994

Section	Description of Offence
36	Contravention of bye-law made under section 36 in relation to parking of vehicles in public places.

### Offence under section 35(5) of the Road Traffic Act 1994

<b>Road Traffic (Traffic and Parking) Regulations 1997 (S.I. No. 182 of 1997)</b>	
Article	Description of Offence
36(as amended by Article 7 of S.I. No. 274 of 1998)	Contravention of prohibition on parking of a vehicle
37	Contravention of restriction on parking a vehicle
38	Contravention of weight restriction on parking a large vehicle
39	Contravention of prohibition on parking a vehicle in bus lane/bus-only street
40	Contravention of prohibition on parking a vehicle in clearway
41	Contravention of prohibition on parking a vehicle at school entrances
42	Contravention of restriction on parking a vehicle in loading bay
45(2)	Contravention of restriction on parking a vehicle in pedestrianised street

**DOCUMENT FOR THE PURPOSES OF SECTION 3(3)(i)  
LOCAL AUTHORITIES (TRAFFIC WARDENS) ACT 1975**

STATEMENT OF NOMINATION OF NAME AND ADDRESS  
OF DRIVER OF VEHICLE

I was not, or being a body corporate or an unincorporated body of persons capable of, driving or otherwise using the vehicle mentioned in the notice in this form at the time of the commission of the offence alleged in the notice. I state that -

<b>Name of driver:</b> (Block Letters)	
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<b>Address:</b> (Block Letters)	

was driving or otherwise using the vehicle at the time of the commission of the alleged offence.

**Signature of Registered Owner:** \_\_\_\_\_

**Date:** \_\_\_\_\_

This statement together with the above notice must be given or sent to Traffic Management Dept., City Hall, Limerick not later than 28 days after the date of the notice.