
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Road Traffic (Northern Ireland) Order 2007

PART II

OFFENCES AND ENFORCEMENT

Attendance on courses

Reduced disqualification period for attendance on course

11.—(1) For Articles 36 to 39 of the Offenders Order (reduced disqualification period for attendance on course) substitute—

“Reduced disqualification period for attendance on course

36.—(1) This Article applies where—

- (a) a person is convicted of a relevant drink offence or a specified offence by or before a court, and
- (b) the court makes an order under Article 35 disqualifying him for a period of not less than 12 months.

(2) In this Article “relevant drink offence” means—

- (a) an offence under sub-paragraph (a) of paragraph (1) of Article 14 of the Order of 1995 (causing death by careless driving when unfit to drive through drink) committed when unfit to drive through drink,
- (b) an offence under sub-paragraph (b) of that paragraph (causing death by careless driving with excess alcohol),
- (c) an offence under sub-paragraph (c) of that paragraph (failing to provide a specimen) where the specimen is required in connection with drink or consumption of alcohol,
- (d) an offence under Article 15 of that Order (driving or being in charge when under influence of drink) committed by reason of unfitness through drink,
- (e) an offence under Article 16(1) of that Order (driving or being in charge with excess alcohol),
- (f) an offence under Article 18(7) of that Order (failing to provide a specimen) committed in the course of an investigation into an offence within any of the preceding sub-paragraphs, and
- (g) an offence under Article 18A(6) of that Order (failing to allow a specimen to be subjected to a laboratory test) in the course of an investigation into an offence within any of the preceding sub-paragraphs.

(3) In this Article “specified offence” means—

- (a) an offence under Article 20(4) of the Roads (Northern Ireland) Order 1993 (use of special road contrary to regulations),
- (b) an offence under Article 12 of the Order of 1995 (careless, and inconsiderate, driving),
- (c) an offence under Article 50 of the Order of 1995 (contravention of traffic signs),
- (d) an offence under Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (contravening speed limit), or
- (e) an offence under Article 7 of the Road Traffic Regulation (Northern Ireland) Order 1997 committed by contravening a temporary speed restriction under paragraph (3) (b) of that Article.

(4) The Department may by order amend paragraph (3) by making additions to or deletions from the list of offences for the time being set out there.

(5) Where this Article applies, the court may make an order that the period of disqualification imposed under Article 35 (“the unreduced period”) shall be reduced if, by the relevant date, the offender satisfactorily completes an approved course specified in the order.

(6) In paragraph (5)—

“an approved course” means a course approved by the Department for the purposes of this Article in relation to the description of offence of which the offender is convicted, and
“the relevant date” means such date, at least 2 months before the last day of the period of disqualification as reduced by the order, as is specified in the order.

(7) The reduction made in a period of disqualification by an order under this Article is a period specified in the order of—

- (a) not less than 3 months, and
- (b) not more than one quarter of the unreduced period,

(and accordingly, where the unreduced period is 12 months, the reduced period is 9 months).

(8) A court shall not make an order under this Article in the case of an offender convicted of a specified offence if—

- (a) the offender has, during the period of 3 years ending with the date on which the offence was committed, committed a specified offence and successfully completed an approved course pursuant to an order made under this Article or Article 32A on conviction of that offence, or
- (b) the specified offence was committed during his probationary period.

(9) A court shall not make an order under this Article in the case of an offender unless—

- (a) it is satisfied that a place on the course specified in the order will be available for the offender,
- (b) the offender appears to the court to be of or over the age of 17,
- (c) the court has informed the offender (orally or in writing and in ordinary language) of the effect of the order and of the amount of the fees which he is required to pay for the course and when he must pay them, and
- (d) the offender agrees that the order should be made.

Certificates of completion of courses

37.—(1) An offender shall only be regarded for the purposes of Article 36 as having completed a course satisfactorily if a certificate that he has done so is received by the proper officer of the supervising court before the end of the unreduced period.

(2) If the certificate under paragraph (1) is so received before the end of the unreduced period but after the end of the period which would (apart from this paragraph) be the reduced period, the reduced period is to be taken to end with the day on which the certificate is so received.

(3) The certificate under paragraph (1) is to be given by the course provider and shall be in such form, and contain such particulars, as may be prescribed by, or determined in accordance with, regulations made by the Department.

(4) A course provider shall give a certificate under paragraph (1) to the offender not later than 14 days after the date specified in the order as the latest date for the completion of the course unless the offender—

- (a) fails to make due payment of fees for the course,
- (b) fails to attend the course in accordance with the course provider's reasonable instructions, or
- (c) fails to comply with any other reasonable requirement of the course provider.

(5) Where a course provider decides not to give a certificate under paragraph (1) to the offender, he shall give written notice of the decision to the offender as soon as possible, and in any event not later than 14 days after the date specified in the order as the latest date for completion of the course.

(6) An offender to whom a notice is given under paragraph (5) may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the course provider's decision not to give a certificate under paragraph (1) was contrary to paragraph (4).

(7) If the court grants an application under paragraph (6), Article 36 shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(8) If 14 days after the date specified in the order as the latest date for completion of the course the course provider has given neither a certificate under paragraph (1) nor a notice under paragraph (5), the offender may, within such period as may be prescribed by rules of court, apply to the supervising court, or (if the supervising court is not the Crown Court or the relevant local court) to either the supervising court or the relevant local court, for a declaration that the course provider is in default.

(9) If the court grants an application under paragraph (8), Article 36 shall have effect as if the certificate had been duly received by the proper officer of the supervising court.

(10) A notice under paragraph (5) shall specify the ground on which it is given; and the Department may by regulations make provision as to the form of notices under that paragraph and as to the circumstances in which they are to be treated as given.

(11) Where the proper officer of a court receives a certificate under paragraph (1), or a court grants an application under paragraph (6) or (8), the proper officer or court (as the case may be) must send notice of that fact to the Department; and the notice must be sent in such manner and to such address, and must contain such particulars, as the Department may determine.

Approval of courses

37A.—(1) If an application is made to the Department for the approval of a course for the purposes of Article 36, the Department must decide whether to grant or refuse the application.

(2) In reaching that decision, the Department must have regard to—

- (a) the nature of the course, and

(b) whether the course provider is an appropriate person to provide the course and administer its provision efficiently and effectively,
and may take into account any recommendations made by any persons appointed to consider the application.

(3) A course may be approved subject to conditions specified by the Department.

(4) An approval of a course is for the period specified by the Department (which must not exceed 7 years), subject to withdrawal of approval.

(5) Regulations made by the Department may make provision in relation to the approval of courses and may, in particular, include provision—

- (a) in relation to the making of applications for approval,
- (b) for the payment in respect of applications for approval, or in connection with approvals, of fees of a prescribed amount,
- (c) specifying the maximum fees that a person may be required to pay for a course and by when they are to be paid,
- (d) for the monitoring of courses and course providers,
- (e) in relation to withdrawing approval,
- (f) for an appeal to lie to a court of summary jurisdiction against a refusal of an application for approval, the imposition of conditions on the grant of such an application or the withdrawal of approval, and,
- (g) authorising the Department to make available (with or without charge) information about courses and course providers.

Courses in Great Britain

37B.—(1) The Department may enter into arrangements with persons in Great Britain who provide courses which are approved courses within the meaning of section 34A(6) of the Road Traffic Offenders Act 1988 for the purpose of treating those courses as approved courses within the meaning of Articles 36 to 38 and in this Article such courses in respect of which such arrangements have been entered into shall be known as “recognised courses”.

(2) Such arrangements may include provision for any matters for which provision is made in Articles 36 to 38 in relation to approved courses.

(3) A court—

- (a) may treat recognised courses as approved courses for the purposes of Article 36,
- (b) may treat any certificates received from course providers of recognised courses as certificates received from course providers of approved courses for the purposes of Article 37,
- (c) may treat a notice of such course provider not to give a certificate as a notice within the meaning of Article 37(5) for the purposes of Article 37(6), (7) and (11), provided that, the offender may only appeal to the supervising court,
- (d) may treat a failure to give such a notice and a failure to give such a certificate in the same way as it would treat such a failure under Article 37(8) for the purposes of Article 37(8), (9) and (11), provided that, the offender may only appeal to the supervising court.

(4) Where a court has made an order in respect of a person under Article 36, that person may apply to the court to vary the order by substituting a recognised course for the course specified in the order, and if the court grants that application, it shall vary the order accordingly.

(5) The power to prescribe periods by rules of court under Article 37(6) and (8) shall include power to prescribe periods for the purposes of paragraph (2)(c) and (d) of this Article.

(6) The Department may by regulations make such further provision in respect of recognised courses as it considers necessary or expedient.

Provisions supplementary to Articles 36 to 37B

38.—(1) The Department may issue guidance to course providers, or to any category of course provider, as to the conduct of courses approved for the purposes of Article 36; and—

- (a) course providers shall have regard to any guidance given to them under this paragraph, and
- (b) in determining for the purposes of Article 37 whether any instructions or requirements of a course provider were reasonable, a court shall have regard to any guidance given to him under this paragraph.

(2) The Department may by regulations make provision—

- (a) amending Article 36(1)(b) by substituting for the period for the time being specified there a different period,
- (b) amending Article 36(7) by substituting for the period for the time being specified there a different period, or by substituting for the fraction of the unreduced period for the time being specified there a different fraction of that period, (or by doing both), or
- (c) amending Article 36(8)(a) by substituting for the period for the time being specified there a different period.

(3) In Articles 36 to 37B and this Article—

“course provider”, in relation to a course, means the person by whom it is, or is to be, provided;

“probationary period” has the meaning given in Article 2 of the Road Traffic (New Drivers) (Northern Ireland) Order 1998;

“proper officer” means—

- (a) in relation to a magistrates' court, the clerk of petty sessions for the petty sessions district for which the court acts, and
- (b) otherwise, the chief clerk;

“course provider”, in relation to an order made under Article 36 in the case of an offender, means a magistrates' court acting for the petty sessions district in which the offender resides;

“rules of court” means—

- (a) in relation to an application to a magistrates' court, magistrates' court rules, and
- (b) in relation to an application to the Crown Court, Crown Court rules;

“course provider”, in relation to an order under Article 36 means—

- (a) if the Crown Court made the order, the Crown Court, and
- (b) otherwise a magistrates' court acting in the same petty sessions district as the court which made the order.

(4) Orders or regulations made by the Department under Article 36 to 37B or this Article may include such incidental or supplementary provision as appears to the Department to be necessary or expedient.

(5) Orders made under Article 36(4) and regulations made under this Article shall be subject to affirmative resolution.

- (6) Regulations made under Article 37, 37A or 37B shall be subject to negative resolution.”.
- (2) Paragraph (1) shall not apply in respect of proceedings commenced before it comes into operation.