

## **FAILING TO PROVIDE SPECIMEN OF BREATH/BLOOD**

### **Road Traffic (NI) Order 1995**

18. - (1) In the course of an investigation into whether a person has committed an offence under Article 14, 15 or 16 a constable may, subject to the following provisions of this Article and Article 20, require him-

- (a) to provide 2 specimens of breath for analysis by means of a device of a type approved by the Head of the Department, or
- (b) to provide a specimen of blood or urine for a laboratory test.

...

(7) A person who, without reasonable excuse, fails to provide a specimen when required to do so in pursuance of this Article is guilty of an offence.

### **Maximum Sentence**

#### Road Traffic Offenders (NI) Order 1996

#### Where offender was driving or attempting to drive

*Summary only:* 6 months imprisonment or Level 5 fine (£5,000) or both

*Disqualification:* Obligatory

*Endorsement:* Obligatory

*Penalty points:* 3-11

#### In any other case

*Summary only:* 3 months imprisonment or Level 4 fine (£2,500) or both

*Disqualification:* Discretionary

*Endorsement:* Obligatory

*Penalty points:* 10

### **Assessment of Offence**

(starting points and ranges based on 1<sup>st</sup> time offender convicted following contest)

<b><u>Nature of Offence</u></b>		<b><u>Starting Point</u></b>	<b><u>Sentencing Range</u></b>
Where offender was 'in charge' of motor vehicle	Deliberate failure/refusal to provide sample	Fine + 15 months Disqualification	£150 - £1,500 Fine + 3 - 24 months Disqualification
	Deliberate failure/refusal to provide sample AND evidence of serious impairment	Fine + 21 months Disqualification	£200 - £2,500 Fine + 6 - 36 months Disqualification
Where offender was driving or attempting to drive motor vehicle	Deliberate failure/refusal to provide sample	Fine + 18 months Disqualification	Fine + 15 - 30 months Disqualification
	Deliberate failure/refusal to provide sample AND evidence of serious impairment	Fine + 24 months Disqualification	£200 - £2,500 Fine + 18 - 36 months Disqualification

<b><u>Examples of Possible Aggravating Factors of Offence</u></b>	<b><u>Examples of Possible Mitigating Factor of Offence</u></b>
<ol style="list-style-type: none"> <li>1. Evidence of unacceptable standard of driving</li> <li>2. LGV, HGV, PSV etc.</li> <li>3. Driving for hire or reward</li> <li>4. Involved in accident</li> <li>5. High likelihood of driving</li> </ol>	<ol style="list-style-type: none"> <li>1. Honestly held but unreasonable excuse</li> <li>2. Low likelihood of driving</li> </ol>

### **Relevant Cases:**

#### NI Cases

R v McKeown [2016] NICA 24

#### English Cases

N/A

### **Notes:**