

## **IN CHARGE WHILST UNFIT**

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

15.- (2) ... a person who, when in charge of a mechanically propelled vehicle which is on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.

#### **Maximum Sentence:**

*Road Traffic Offenders (NI) Order 1996*

*Summary only: 3 months imprisonment or level 5 fine (£5,000) or both*

*Disqualification: Discretionary ('until tested' also discretionary – Art.41(4))*

*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>Starting Point</u></b>	<b><u>Sentencing Range</u></b>
Where ability to drive would have been impaired  OR  Where alcohol level is available showing: <b><u>Breath (mg)</u></b> <b><u>Blood (ml)</u></b> <b><u>Urine (ml)</u></b> 36-70                      81-160                      108-214	Fine + 12 months Disqualification	£150-£1500 fine + 10 Penalty Points to 24 months Disqualification
Where ability to drive would have been significantly impaired  OR  Where alcohol level is available showing: <b><u>Breath (mg)</u></b> <b><u>Blood (ml)</u></b> <b><u>Urine (ml)</u></b> 71 or more                      161 or more                      215 or more	Fine + 18 months disqualification	£200-£2000 fine + 10 Penalty Points to 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>
1. Driving LGV, HGV, PSV, etc 2. Vehicle in use for hire or reward at time of offence 3. Accident has occurred involving the offender 4. Evidence that car was being driven prior to police arrival at scene 5. High likelihood of driving 6. Driving for hire or reward	1. Low likelihood of driving

#### **Relevant Cases:**

*NI Cases*

R v McKeown [2016] NICA 24

*English Cases*

N/A

#### **Notes:**

1. The court will have particular regard to the circumstances surrounding how the offender came to be 'in charge' of the vehicle.