



accidents don't have to happen

# Regulations to Tackle Drink Driving in Northern Ireland

RoSPA's Response to the Department for Environment (Northern Ireland) Consultation Paper

Date: 17 May 2016



Response to DOE (NI) Consultation Paper, "Regulations to Tackle Drink Driving in Northern Ireland"

## Introduction

This is the response of the Royal Society for the Prevention of Accidents (RoSPA) to the Department of the Environment (DOE) consultation paper, "Regulations to Tackle Drink Driving in Northern Ireland". It has been produced following consultation with RoSPA's National Road Safety Committee.

The current drink driving limit in Northern Ireland is 80 milligrammes of alcohol per 100 millilitres of blood (80mg/100ml). Any driver or motorcyclist who exceeds this limit is prosecuted in court, where on conviction the penalties range from a minimum 12 month driving disqualification to up to 14 years imprisonment and unlimited fines for the most serious offences. Offenders also need to re-take and pass the theory and practical driving test before regaining their licence after their disqualification period.

Although the number of drink drive deaths and injuries on Northern Ireland's road has significantly reduced over the last two decades, it is still a serious road safety problem. Between 2010 and 2014, 53 people were killed and 334 seriously injured in collisions with drivers impaired by drink or drugs, 18% of all road fatalities over that period. Therefore, the Road Traffic (Amendment) Act (Northern Ireland) 2016 will introduce a range of measures to further reduce the harm caused by drink driving, including:

- A new lower drink drive limits of 50mg/100ml for most drivers
- A new lower drink drive limit of 20mg/100ml for learner drivers, novice drivers (i.e. within first two years after passing the driving test) and professional drivers (holding certain bus, lorry and taxi driver licences).
- A new graduated penalty regime that includes fixed penalties for first offences at lower limits and court prosecution for high alcohol level first offences or any second or subsequent offences;
- New breath testing powers to enable police to breathalyse the drivers of vehicles at roadside check-points without the need to have 'reasonable cause to suspect' that the driver has consumed alcohol;
- Automatic referral onto an approved Course for Drink Drive Offenders unless a District Judge decides that attendance would be inappropriate. While an offender may be referred automatically, attendance will remain voluntary
- Removal of the right to opt for a blood or urine sample to replace the breath test sample where the breath reading is marginally above the limit.

Some, but not all, of these measures require secondary legislation to be fully brought into operation. Therefore, this consultation paper seeks views on the Statutory Rules needed to:

1. introduce a new fixed penalty system for offences involving lower levels of alcohol
2. restrict the requirement to re-sit the driving test to those disqualified for 12 months or more for offences involving higher levels of alcohol
3. amend the blood alcohol threshold that applies to the High Risk Offenders Scheme.



Response to DOE (NI) Consultation Paper, "Regulations to Tackle Drink Driving in Northern Ireland"

## Fixed Penalties

First time offenders with a BAC level between 50mg - 79mg /100ml (or between 20mg - 79mg/100ml for learner, novice or professional drivers) will be offered a fixed penalty of a £200 fine and 6 penalty points. They will not be disqualified from driving. They will also be offered the opportunity to attend and complete an approved Course for Drink Drive Offenders. If they accept this offer, they will be issued with a lower fixed penalty of £100 and 3 penalty points. They would also have to pay the course fee (currently £155 or £110 concessionary) and if they subsequently fail to complete the course, a further fixed penalty of a £100 fine and an additional 3 penalty points will be issued.

If the police officer who administered the breath test does not consider the person to be suitable for a fixed penalty (for example, it is not their first offence within a 10 year period or they already have penalty points on their licence) they will be prosecuted in court and face a driving ban, as will drivers who are caught at 80mg/100ml or above.

### Question 1

**Do you have any comments on the Department's approach to introducing fixed penalties for lower level drink driving offences?**

### RoSPA Response

RoSPA is not convinced that fixed penalties, without a driving disqualification, reflect the seriousness of drink driving offences, even at the new lower limits (as we stated in our response to the DOE's 2012 consultation). However, we note paragraph 2.6 of this consultation paper states that the DOE "*is not seeking comments on the concept of fixed penalties for drink driving offences in this consultation*" but on its approach to how they will be used. Therefore, our comments are restricted to the DOE's approach for introducing fixed penalties for drink drive offenders who exceed the new lower limits, but not the existing 80mg/100ml limit.

RoSPA agrees with the approach of incentivising offenders to take and complete an approved Course for Drink Drive Offenders, by imposing a lower fixed penalty (£100 fine and 3 penalty points) on drivers who do so. This should provide an incentive to take the course, and research has indicated that offenders who complete a drink drive rehabilitation course have a lower reconviction rate for subsequent drink drive offences than drivers who do not complete a course.

We believe that the reduced fixed penalty for drivers who agree to take the course (and who must pay the course fee) represents a good balance, and that it is quite right that they should pay the higher fixed penalty if they accept the offer but subsequently fail to complete the course.

We agree that the fixed penalty should not be offered to drivers who the police officer does not consider suitable because, for example, they have had a previous drink drive conviction or already have penalty points on their licence. Another reason to consider a driver unsuitable for a fixed penalty could be if they were stopped for committing another motoring offence, and subsequently failed the breath test.

Automatic referral onto a course may mean more offenders taking the course, so it will be essential to ensure that sufficient numbers of courses are available across Northern Ireland and on days of the week and at times that do not make it difficult for offenders to take the course.



Response to DOE (NI) Consultation Paper, "Regulations to Tackle Drink Driving in Northern Ireland"

## Disqualified Until Tested

Currently, a person convicted of driving, or attempting to drive, a vehicle while over the drink drive limit of 80mg/100ml in Northern Ireland must be disqualified for a minimum period of 12 months (unless the judge thinks there are special reasons not to do so). At the end of their disqualification period, they must pass the Theory and Practical Driving Test in order to regain their full licence. This is not viewed as an additional punishment, but as recognition that they have not driven a vehicle for a protracted period and would, therefore, benefit from retraining.

However, under the new limits and penalties, anyone convicted in court for exceeding the 50mg/100ml (or 20mg/100ml for learner, novice and professional drivers) but not the 80mg/100mls will face a minimum disqualification of 6 months, rather than 12 months. The DOE considers it unnecessary and inappropriate to require such offenders to take a re-test in order to regain their driving licence because they have been disqualified for less than 12 months.

The DOE, therefore, propose to remove the requirement to re-sit a driving test for these drivers. The re-test requirement would continue to apply for drivers who exceed the 80mg/100ml limit and so are disqualified for 12 months or more.

### Question 2

**Do you have any comments on the Department's approach to the restriction of the requirement to re-sit the driving test to those disqualified for 12 months or more for offences involving higher levels of alcohol?**

### RoSPA Response

RoSPA does not object to restricting the requirement to re-take the driving test to drivers who were disqualified from driving for 12 months or more.



Response to DOE (NI) Consultation Paper, "Regulations to Tackle Drink Driving in Northern Ireland"

## High Risk Offenders

The High Risk Offenders (HRO) Scheme deals with drivers whose dependence on, or persistent misuse of, alcohol presents a serious road safety risk. A person who was two and a half times or more than the 80mg/100ml limit (ie, 200mg/100ml or more), or who failed to provide a sample to police for analysis or has been convicted of two drink drive offences within ten years, is classed as a High Risk Offender. They then face more stringent penalties and must pass a medical examination before having their licence reinstated at the end of their disqualification period. If they fail to pass the exam, their application for a driving licence is refused.

The DOE believes that the current threshold of 200mg/100ml is too high for drivers convicted under the new lower limit, and that it should be reduced to 125mg/100ml. This would retain the ratio of 2½ times the new lower limit of 50mg/100ml to be categorised as a high risk offender.

### Question 3

**Do you agree with the Department's approach to reducing the threshold for High Risk Offenders to 125mg/100mls?**

### RoSPA Response

RoSPA agrees that the threshold at which drink drive offenders are categorised as High Risk Offenders, and so subject to more stringent penalties, should be retained as 2½ times the drink drive limit. Therefore, the threshold should be reduced to 125mg/100ml.

We note that when the drink drive limit was reduced from 80mg/100ml to 50mg/100ml in Scotland the threshold of 200mg/100ml for offenders to be categorised as a High Risk Offender was maintained at 200mg/100ml. However, the Scottish Government did not have the power to change the penalties.

The risk of having an accident increases exponentially as more alcohol is consumed, and the North Review into Drink and Drug Driving Law in Great Britain in 2010 recommended that the limit be lowered to 50mg/100ml and that the High Risk Offender threshold be reduced to 2 ½ times this lower limit (ie, 125mg/100ml as the DOE propose) on the grounds that this "is still a very high level of alcohol and is associated with an almost 50 fold increase in the risk of dying from a road traffic accident".

However, it did sound a note of caution which the DOE may wish to consider, in that a "lower HRO threshold of 2 ½ times a new limit of 50 mg/100 ml would encompass a much larger group of offenders than at present, some of whom may not have an alcohol dependency problem which the HRO Scheme is aimed at addressing. The consequence of this is that a larger group of people would be required to be assessed by an approved doctor to ensure that they do not have an alcohol dependency or misuse problem before having their licence reinstated."

The consultation paper does not appear to state whether the ratio of 2 ½ times the limit would be applied to the 20mg/100ml limit for learner, novice and professional drivers. Would a learner, novice or professional driver caught at 50mg/100ml (which is 2 ½ times the 20mg limit) be categorised as a High Risk Offender?



Response to DOE (NI) Consultation Paper, "Regulations to Tackle Drink Driving in Northern Ireland"

## Consultation Process

### Question 4

**Do you have any comments to make on the consultation process?**

### RoSPA Response

RoSPA has no comments to make on the consultation process, other than to thank the Department of the Environment for the opportunity to comment on the proposals. We have no objection to our response being reproduced or attributed.





accidents don't have to happen

---

**RoSPA Head Office**

28 Calthorpe Road  
Birmingham  
B15 1RP  
☎ +44 (0)121 248 2000

**RoSPA Scotland**

43 Discovery Terrace  
Livingstone House  
Heriot-Watt University Research Park  
Edinburgh  
EH14 4AP  
☎ +44 (0)131 449 9378/79

**RoSPA Wales**

2nd Floor  
2 Cwrt-y-Parc  
Parc Ty Glas  
Cardiff Business Park  
Llanishen  
Cardiff  
CF14 5GH  
☎ +44 (0)2920 250600

**General Enquiries**

☎ +44 (0)121 248 2000  
☎ +44 (0)121 248 2001  
✉ help@rospa.com  
🐦 twitter.com/rospa  
📘 facebook.com/rospa  
🌐 linkedin.com/rospa

**www.rospa.com**

Registered Charity No. 207823  
VAT Registration No. 655 131649

