
STATUTORY INSTRUMENTS

2005 No. 1965

The Criminal Justice (Northern Ireland) Order 2005

Road traffic

Extension of role of health care professionals

18.—(1) In paragraph (5) of Article 18 of the [Road Traffic \(Northern Ireland\) Order 1995 \(NI 18\)](#) (constable to decide if specimen is of blood or urine) for the words from “shall be decided” onwards substitute “and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to paragraph (5A)) by the constable making the requirement”.

(2) After that paragraph insert—

“(5A) Where a constable decides for the purposes of paragraph (5) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—

- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
- (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner;

and, where by virtue of this paragraph there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.”.

(3) In paragraph (2) of Article 13 of that Order (interpretation of Articles 14 to 21), after the definition of “the prescribed limit” insert—

““registered health care professional” means a person (other than a medical practitioner) who is one of the following—

- (a) a nurse registered on the register maintained by the Nursing and Midwifery Council pursuant to paragraph 10 of Schedule 2 to the Nursing and Midwifery Order 2001 by virtue of qualifications in nursing; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.”.

(4) After that paragraph there shall be inserted—

“(2A) In paragraph (2) “health care profession” means any profession mentioned in section 60(2) of the Health Act 1999 other than the profession of practising medicine and the profession of nursing.

(2B) An order under paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.”.

(5) For paragraph (4) of that Article substitute—

“(4) A person provides a specimen of blood if and only if—

- (a) he consents to the taking of such a specimen from him intravenously; and

- (b) the specimen is so taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.”.

Specimens taken from persons incapable of consenting

19.—(1) After Article 18 of the [Road Traffic \(Northern Ireland\) Order 1995 \(NI 18\)](#) insert—

“Specimens of blood taken from persons incapable of consenting

18A.—(1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—

- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under Article 20) be entitled under Article 18 to require the provision of a specimen of blood for a laboratory test;
 - (b) it appears to that constable that that person has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter;
 - (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
 - (d) it appears to that constable that that person’s incapacity is attributable to medical reasons.
- (2) A request under this Article—
- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
 - (b) shall not be made to a medical practitioner other than a police medical practitioner unless—
 - (i) it is not reasonably practicable for the request to be made to a police medical practitioner; or
 - (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.
- (3) It shall be lawful for a medical practitioner to whom a request is made under this Article, if he thinks fit—
- (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
 - (b) to provide the sample to a constable.
- (4) If a specimen is taken in pursuance of a request under this Article, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—
- (a) has been informed that it was taken; and
 - (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
 - (c) has given his permission.

(5) A constable must, on requiring a person to give his permission for the purposes of this Article for a laboratory test of a specimen, warn that person that a failure to give the permission may render him liable to prosecution.

(6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this Article is guilty of an offence.

(7) In this Article “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of the police.”.

(2) In Article 20 of that Order (protection of hospital patients), for paragraph (2) substitute—

“(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under Article 18A and he shall not be required to give his permission for a laboratory test of a specimen taken under that Article unless the medical practitioner in immediate charge of his case—

(a) has been notified of the proposal to take the specimen or to make the requirement; and

(b) has not objected on the ground specified in paragraph (2).

(2) The ground on which the medical practitioner may object is—

(a) in a case falling within paragraph (1), that the requirement or the provision of the specimen or (if one is required) the warning

required by Article 18(8) would be prejudicial to the proper care and treatment of the patient; and

(b) in a case falling within paragraph (1A), that the taking of the specimen, the requirement or the warning required by Article 18A(5) would be so prejudicial.”.

(3) In Article 35(3) of the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) (disqualification for certain offences where offender has previous conviction) after sub-paragraph (d) insert—

“(e) Article 18A(6) (failing to allow a specimen to be subjected to laboratory test) where that is an offence involving obligatory disqualification;”.

(4) In Part I of Schedule 1 to the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to Article 18 of the 1995 Order insert—

Article	Failing	Summarily.	Where	(a) Obligatory	(a) Obligatory	(a) 11, (a)
18A(6)	to allow specimen to be subjected to laboratory test.		the test would be for ascertaining ability to drive or proportion of alcohol at the	(a) in the case mentioned in column 4(a).	(b) Discretionary in any other case	3-11, (a) in the case mentioned in column 4(a). (b) 10, in any other case

time
offender
was
driving
or
attempting
to
drive,
6
months
or
level
5
on
the
standard
scale
or
both.

(b) In
any
other
case,
3
months
or
level
4
on
the
standard
scale
or
both.

(5) In paragraph (2) of Article 18 of the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) (evidence of blood alcohol level)—

(a) after “provided by” insert “or taken from”; and

(b) after the word “provided”, in the second place where it occurs, insert “or taken”.

(6) In paragraph (3)(a) of that Article (rebutting the assumption in paragraph (2)), after “provided the specimen” there shall be inserted “or had it taken from him”.

(7) In paragraph (4) of that Article (circumstances in which a specimen of blood is to be disregarded), for the words from “unless” to the end there shall be substituted

“unless—

(a) it was taken from the accused with his consent and either—

(i) in a police station by a medical practitioner or a registered health care professional;
or

(ii) elsewhere by a medical practitioner; or

- (b) it was taken from the accused by a medical practitioner under Article 18A of the Order of 1995 and the accused subsequently gave his permission for a laboratory test of the specimen.”.
- (8) After paragraph (5) of that Article, add—
- “(6) Where a specimen of blood was taken from the accused under Article 18A of the Order of 1995, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—
- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
- (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.”.
- (9) In paragraph (1) of Article 19 of the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) (documentary evidence as to specimens), after “18(5)” insert “and (5A)”.
- (10) In paragraph (2) of that Article (documentary evidence as to consent), after the words “medical practitioner”, in both places where they occur, insert “or a registered health care professional”.

Funding for speed cameras, etc.

- 20.**—(1) The Secretary of State may make payments in respect of the whole or any part of the expenditure of a public authority in relation to—
- (a) the prevention or detection of offences to which paragraph (2) applies; or
- (b) any enforcement action or proceedings in respect of such offences or any alleged such offences.
- (2) This paragraph applies to offences under—
- (a) Article 20 of the [Roads \(Northern Ireland\) Order 1993 \(NI 15\)](#) (contravention of restrictions on use of special roads);
- (b) Article 7 of the [Road Traffic Regulation \(Northern Ireland\) Order 1997 \(NI 2\)](#) (contravention of temporary prohibition or restriction on traffic);
- (c) Article 43 of that Order (contravention of a speed limit); and
- (d) Article 49 of the [Road Traffic \(Northern Ireland\) Order 1995 \(NI 18\)](#) (contravention of traffic directions or traffic signs).
- (3) Payments under this Article shall be made at such times, in such manner and subject to such conditions as the Secretary of State may determine.
- (4) In this Article “public authority” means—
- (a) the Policing Board of Northern Ireland;
- (b) a Northern Ireland department;
- (c) any other body which exercises functions of a public nature.