

SCHEDULES

SCHEDULE 16

EXTENSION OF DISQUALIFICATION FOR DRIVING

Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10))

4 After Article 40 of the Road Traffic Offenders (Northern Ireland) Order 1996 insert—

“40A Extension of disqualification where custodial sentence also imposed

- (1) This Article applies where a person is convicted of an offence for which the court—
 - (a) imposes a custodial sentence, and
 - (b) orders the person to be disqualified under Article 35 or 40.
- (2) The order under Article 35 or 40 must provide for the person to be disqualified for the appropriate extension period, in addition to the discretionary disqualification period.
- (3) The discretionary disqualification period is the period for which, in the absence of this Article, the court would have disqualified the person under Article 35 or 40.
- (4) The appropriate extension period is—
 - (a) where a court imposes a sentence under Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (punishment of grave crimes: indeterminate sentences), a period equal to the period specified in the sentence under Article 45(2) of that Order less any relevant discount;
 - (b) where an order under Article 5(1) of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) (determination of tariffs) is made in relation to the custodial sentence, a period equal to the part of the sentence specified in that order less any relevant discount;
 - (c) where Article 8(1) of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) (sentence for a determinate term) applies in relation to the custodial sentence, a period equal to the custodial period specified pursuant to Article 8(2) of that Order less any relevant discount;
 - (d) where a court imposes a sentence under Article 13(3) of the Criminal Justice (Northern Ireland) Order 2008 (indeterminate custodial sentences for serious offences), a period equal to the period specified pursuant to Article 13(3)(b) of that Order less any relevant discount;
 - (e) where Article 14(3) of the Criminal Justice (Northern Ireland) Order 2008 (extended custodial sentences for certain offences where the

Status: This is the original version (as it was originally enacted).

- offender is aged over 21) applies in relation to the custodial sentence, a period equal to half of the term imposed pursuant to Article 14(3)(a) of that Order calculated after that term has been reduced by any relevant discount;
- (f) where Article 14(5) of the Criminal Justice (Northern Ireland) Order 2008 (extended custodial sentences for certain offences where the offender is aged under 21) applies in relation to the custodial sentence, a period equal to half of the term imposed pursuant to Article 14(5)(a) of that Order calculated after that term has been reduced by any relevant discount;
- (g) in any other case, a period equal to half the custodial sentence imposed calculated after that sentence has been reduced by any relevant discount.
- (5) If a period determined under paragraph (4) includes a fraction of a day, that period is to be rounded up to the nearest number of whole days.
- (6) The “relevant discount” is the number of days by which the custodial sentence is treated as reduced by virtue of section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (periods in custody before sentence passed etc).
- (7) This Article does not apply where—
- (a) the custodial sentence was a suspended sentence, or
 - (b) the court has made an order under Article 5(3) of the Life Sentences (Northern Ireland) Order 2001 (life sentence: no early release) in relation to the custodial sentence.
- (8) Paragraph (9) applies where an amending order provides that the proportion of a prisoner’s sentence referred to in Article 18(2)(b) of the Criminal Justice (Northern Ireland) Order 2008 (duty to release prisoners serving extended custodial sentences) is to be read as a reference to another proportion (“the new proportion”).
- (9) The Secretary of State may by order provide that the proportion specified in paragraph (4)(e) and (f) of this Article is to be read, in the case of a custodial sentence to which the amending order applies, as a reference to the new proportion.
- (10) An order under paragraph (9) is subject to annulment by a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (instruments subject to annulment by resolution of either House of Parliament) applies accordingly.
- (11) In this Article—
- “amending order” means an order under Article 18(9) of the Criminal Justice (Northern Ireland) Order 2008 (alteration by order of relevant part of sentence);
- “custodial sentence” has the meaning given by Article 4 of the Criminal Justice (Northern Ireland) Order 2008;
- “suspended sentence” means a suspended sentence or order for detention under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968.

40B Effect of custodial sentence in other cases

- (1) This Article applies where a person is convicted of an offence for which a court proposes to order the person to be disqualified under Article 35 or 40 and—
 - (a) the court proposes to impose on the person a custodial sentence (other than a suspended sentence) for another offence, or
 - (b) at the time of sentencing for the offence, a custodial sentence imposed on the person on an earlier occasion has not expired.
- (2) In determining the period for which the person is to be disqualified under Article 35 or 40, the court must have regard to the consideration in paragraph (3) if and to the extent that it is appropriate to do so.
- (3) The consideration is the diminished effect of disqualification as a distinct punishment if the person who is disqualified is also detained in pursuance of a custodial sentence.
- (4) If the court proposes to order the person to be disqualified under Article 35 or 40 and to impose a custodial sentence for the same offence, the court may not in relation to that disqualification take that custodial sentence into account for the purposes of paragraph (2).
- (5) In this Article “custodial sentence” and “suspended sentence” have the same meaning as in Article 40A.”