

DRIVING WHILST DISQUALIFIED

Road Traffic (NI) Order 1981

168A.- (1) Subject to paragraphs (3) and (4), a person is guilty of an offence if, while disqualified for holding or obtaining a driving licence, he—
...
(c) drives a motor vehicle on a road.

Maximum Sentence:

Road Traffic Offenders (NI) Order 1996

Summarily: 6 months imprisonment or the statutory maximum fine (£5,000) or both

On indictment: 2 years imprisonment or unlimited fine or both

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

Endorsement: Obligatory

Penalty points: 6

Assessment of Offence

(Starting points and ranges based on 1st time offender convicted following contest)

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
N/A	Custody + 18 months Disqualification	Community Order to 6 months Custody + 6-36 months Disqualification

Examples of Possible Aggravating Factors of Offence

1. Never passed test
2. Planned long term evasion
3. Vehicle obtained during ban
4. Driving for remuneration
5. Evidence of associated bad driving
6. Offender caused accident
8. Driving early within period of disqualification

Examples of Possible Mitigating Factors of Offence

1. Genuine emergency established
2. Genuine reason why not aware of disqualification.

Relevant Cases:

NI Cases:

[R v Smith and Others \[2004\] NICC 12](#)

English Cases:

[R v Forbes \[2005\] EWCA Crim 2069](#)

Notes:

Art. 168A(3).- Paragraph (1)(a) and (b) do not apply in relation to disqualification by virtue of Article 17 (Disqualification of persons under age).