

MOBILE PHONES AND DRIVING – FREQUENTLY ASKED QUESTIONS

Can you summarise the new regulations?

- Using any type of phone that has to be held at any point during operation will be prohibited. A genuine emergency call to 999, if it would be unsafe for the driver to stop, would not result in prosecution.
- Phones will still be allowed in cars, and nothing will prevent passengers using them (providing they do not hold them for a driver).
- Use of other types of hand-held devices, similar to mobile phones, used for accessing data, text, pictures or the internet, will also be prohibited – but 2-way radios will not be caught by this.
- In the context of holding a phone, the legislation does not prohibit pushing buttons on a phone while it is in a cradle or if it is being operated via buttons on the steering wheel or handlebars of a motorbike.

When would the new regulations come into force?

- 1st February 2004.

Penalties?

- Initially a £30 fixed penalty or maximum fine of £1,000 for conviction in court (maximum of £2,500 for drivers of goods vehicles for buses/coaches) would apply. In some circumstances (eg if there has been an accident), a prosecution for careless or dangerous driving may be justified. The penalties for these offences include heavy fines, endorsement, disqualification and, in serious cases, imprisonment.
- However, it is planned to increase the penalty for the new offence by making it subject to 3 penalty points. Primary legislation will be needed for this when a suitable opportunity arises to amend Schedule 1 of the Road Traffic Offenders (NI) Order 1996.

How do the police deal with drivers using mobile phones at the moment/ hands-free phones in the future?

- Existing sanctions remain. The police can prosecute drivers under Regulation 120 of the Construction and Use Regulations (NI) 1999 for failing to have proper control of their vehicle.

Why are you not tackling those who use hands-free mobile phones while driving?

- It is recognised that using any type of phone while driving is distracting but a specific offence prohibiting hands-free phones would be impracticable for the police to enforce.

How will you define a hands-free phone?

- The regulations define the activity (ie holding a phone). [Holding would include a passenger holding a phone for a driver to use, and would also include a driver holding a phone against his ear with his shoulder.]

Does this prohibition relate only to speaking on a mobile phone? What about texting/internet access/picture/video phones?

- If the device has to be held, then using it when driving is prohibited.

Would mobile phones have to be switched off in vehicles?

- No. It is not practicable to enforce this – and passengers can still use them.

Would the new regulations apply only to car drivers?

- No. The new regulations apply to the drivers of all motor vehicles on the road – cars, motorcycles, goods vehicles, buses and coaches, taxis, etc.
- It will not apply to cyclists – government do not think cyclists using phones is a significant problem. However, if the police consider someone was cycling dangerously, they have powers to deal with them (eg Articles 42 and 43 of the Road Traffic (NI) Order 1995 deal with dangerous cycling, and cycling without due care and attention or without reasonable consideration).

What about employers?

- The new regulations apply to 'anyone who causes or permits any other person' to use a hand-held mobile phone while driving.
- Government considers that employers would not be liable just because they had supplied a telephone or because they phoned an employee who was driving. However, employers would be liable if they required employees to use a hand-held phone while driving and made no attempt to forbid the use of them.

Where would a driver be able to use a hand-held mobile phone? What about when stopped in a motorway jam?

- Drivers are not allowed to use hand-held phones while at traffic lights or during short hold-ups that may occur during a typical journey because someone is still driving a vehicle if the engine is running.

What about exemptions?

- There is an exemption for emergency 999 calls.

What about 2-way radios?

- Two-way radio equipment has not been included within the new offence.
- It has been recognised that 2-way radios have been used over many years without giving rise to road safety concerns. Amateur radio operators, some commercial drivers such as taxi drivers and hauliers, and some of the emergency services use

them to communicate with a base station. Government accept that such “press to talk” devices keep conversations short and are likely to have a lower risk. They are far less convenient, requiring a dedicated frequency and permitting only one-way conversations while a button is held, and are therefore unlikely to be used as an alternative to a hand-held phone by the vast majority of drivers.

What research exists to demonstrate the effect on road safety of mobile phone use?

- Research has demonstrated that the risk of having a collision quadruples while using a mobile phone.

If you prohibit using mobile phones, then surely you’ll have to stop people talking or tuning the radio? What powers do the police have?

- There are no such intentions. Such distractions could contribute to a collision, but tuning the radio is a very short-term distraction, and passengers can see what is happening in a vehicle and can stop talking to the driver when conditions are difficult.
- The police still have powers under Regulation 120 of the Construction and Use Regulations to deal with those who fail to maintain control of their vehicle for whatever reason.

Driving Instructors?

- The new regulations would apply to drivers and to those supervising provisional licence holders. Anyone supervising a learner driver needs to be concentrating on what the driver is doing and should not be using a hand-held phone.