



**BRITISH-IRISH
INTER-PARLIAMENTARY BODY**

**COMHLACHT IDIR-PHARLAIMINTEACH
NA BREATAINE AGUS NA hÉIREANN**

REPORT

from

COMMITTEE A (Sovereign Matters)

on

MUTUAL RECOGNITION OF PENALTY POINTS

EXECUTIVE SUMMARY

There is currently a significant problem in both Northern Ireland and the Republic of Ireland with drivers from the one jurisdiction committing driving offences in the other. Speeding is the commonest of these offences, though not the only one.

Separate systems of "penalty points" endorsed on an offending driver's licence operate both in Northern Ireland and in the Republic of Ireland, as well as in Great Britain. Once a particular level of points is reached, a driver is disqualified from driving. However there is no provision for the endorsement on a driver's licence of points awarded for an offence committed outside that driver's home jurisdiction. Drivers are therefore free to speed, or commit other driving offences, in a jurisdiction other than their own with relative impunity.

Although the systems in each of the three jurisdictions operate similarly in principle, the practical differences not only between the system in Northern Ireland and that in the Republic of Ireland, but also between both of those systems and that in Great Britain, mean that providing for mutual recognition of penalty points is not straightforward. The UK Government's current view, as stated to the Committee's rapporteurs, is that mutual recognition between Northern Ireland and Great Britain ("East-West") should be effected before recognition between the Republic of Ireland and Northern Ireland ("North-South").

Based on the evidence given to its Rapporteurs, however, the Committee concludes that "North-South" recognition is more important than "East-West". Drivers from the North committing offences in the South, and vice versa, pose a much more significant problem than drivers from Great Britain. The Committee therefore makes the following recommendations:

- that, in the short to medium term, a system be established whereby the relevant authorities in the jurisdiction where an offence takes place submit a report to the authorities in the driver's home jurisdiction, and appropriate penalties are imposed as if the offence had been committed there;
- that, in the longer term, the relevant authorities in Northern Ireland and the Republic of Ireland consult on legislative arrangements and procedures with a view to putting in place a single penalty points system and enforcement procedures to operate both north and south; and that arrangements then be progressed to incorporate the system in Northern Ireland into a single U.K. system to allow for an eventual regime of mutual recognition to be put in place between the whole of the U.K. and the Republic of Ireland;
- that ensuring a best practice road safety regime in Ireland would benefit from the establishment of a single body to deal with road safety issues on an all-island basis; and that in the interim co-operation between north and south on road safety issues should be further developed.

Background

1. At its meeting in Manchester on 26 November 2002, the Committee appointed Lord Dubs and Senator Brian Hayes to act as rapporteurs on an inquiry into the possibility of mutual recognition of penalty points between the systems operating in Northern Ireland and the Republic of Ireland.

An interim Report on the issue was prepared by the rapporteurs and presented to the 26th. Plenary session of the BIIPB in Kilkenny in March 2003 . At this plenary, the Committee agreed that the rapporteurs should continue their inquiry and present a final report to the 27th Plenary session of the Body.

Scope of report

2. In the course of their inquiry, the rapporteurs heard views on the issue of penalty points from three perspectives; the political level, the policing and enforcement level, and the views of road safety agencies. Meetings were held with the Irish Minister for Transport, Mr. Seamus Brennan TD and officials of the Irish Department of Transport; with Ms. Angela Smith MP, Parliamentary Under-Secretary of State at the NIO and officials of the NIO; with the Chief Constable of the PSNI and the Commissioner of the Garda Síochána; and with the Road Safety Council of Northern Ireland and the National Safety Council of Ireland.

Situation in Republic of Ireland

3. The Irish Government's Strategy for Road Safety 1998 - 2002 gave a commitment to the introduction of a penalty point system to track infringements of driving regulations with a view to improving the driving behaviour of recurrent offenders. The Road Traffic Act 2002 of March 2002 made provision for the introduction of such a system. The design of the system required careful consideration in Irish circumstances because of the exclusive constitutional role of the courts in the administration of justice.

4. Under the Road Traffic Act 2002 penalty points will be applicable to a wide range of minor offences, the commission of which have a potentially negative impact on road safety. These include excessive speeding, red light running, poor lane discipline, non-compliance with stop and yield signs and a number of offences relating to vehicle safety.

5. The penalty points system will be operated through the National Driver File which is the responsibility of the Minister for the Environment and Local Government. Work on the amendment of that File to accommodate the penalty points system is completed. However, before the system can become fully operational to include the full range of penalty points provided for in legislation, in addition to the three offences presently incurring penalty points, the National Driver File must be supported by the IT systems of the Courts and the Gardaí. The development of these IT systems, which is a matter for the Minister for Justice,

Equality and Law Reform, is proceeding and the system will be available before the end of 2004.

Penalty Points System in the Republic of Ireland

6. Where a driver with a foreign licence is detected committing a penalty point offence in the Republic of Ireland at present, it is not possible to record penalty points since no entry exists in the National Driver File relating to that driver. However, a record is opened in the National Driver File recording details of the offence and the number of penalty points applicable are held in abeyance. Should the driver apply for an Irish driving licence at a later date, the points then become live and will be endorsed on the licence record for a three-year period

7. The Road Traffic Act, 2002 establishes the number of points that will be applied in respect of each penalty point offence. Penalty points will apply to 69 offences in total. The number of points which will apply on conviction will be either 3, 4 or 5 depending on the offence. The number of penalty points applicable after paying a fixed charge will be either 1 or 2 depending on the offence.

8. Penalty points will be recorded for 3 years and where a total of 12 is reached, the person will be automatically disqualified for 6 months. The driving disqualifications arising from the accumulation of penalty points will be notified administratively through the National Driver File. They will not be imposed by court order, as is (and will remain) the case for disqualifications provided for in road traffic legislation up to now.

9. It is envisaged that penalty points will in most cases be incurred through the payment by motorists of fixed charges. If the motorist pays the fixed charge he/she will be accepting the consequence that the lower number of penalty points will be endorsed on their driving licence record. Of course, the motorist can allow the matter to go to court. Obviously, if there is a not guilty verdict, there are no penalty points. However, if convicted, the higher number of penalty points will be endorsed. The notice issued to the motorist will set out the consequences associated with both the payment of a fixed charge or a conviction.

Introduction of Penalty Points for Speeding

10. Excessive speed is recognised as the most significant contribution to road accident causation and has already been the subject of significant investment in enforcement measures by An Garda Síochána. The importance of achieving safer speeds was recognised as a key priority of the Road Safety Strategy 1998 2002 and will remain a priority area for the next Strategy, which is currently being developed. During the course of 2002, it was considered that the road safety situation was such that more immediate progress was required especially in relation to speeding offences, because it is the greatest contributor to accidents. The Minister for Transport therefore arranged in co-operation with the agencies involved to apply penalty points to speeding offences with effect from 31 October, 2002 (2 points- 4

on conviction). In March 2003 penalty points were made applicable to the offence of driving without proper insurance (a court offence - 5 points), and in August 2003 to the offence of not wearing seat-belts (2 points- 4 on conviction).

11. The number of penalty point notifications issued to 6 October, 2003 is over 61,000. By the end of September, 57,398 drivers have received penalty points as a result of paying fixed charges to the Gardaí and of those:

- 55,332 have received 2 Points,
- 1,949 have received 4 Points,
- 106 with 6 Points,
- 10 are on 8 Points and
- 1 is on 10 Points.

In addition 56 drivers have incurred 4 penalty points following conviction in the Courts.

Penalty Points in Northern Ireland and Mutual Recognition

12. Penalty points have been operating in Northern Ireland since 1997. A separate system, which contains differences from that in Northern Ireland, operates in Great Britain. There is no mutual recognition between those two systems. Accordingly, where a person who holds a Northern Ireland licence commits a penalty point offence in Great Britain, the points can not be recorded on that licence.

13. In the absence of mutual recognition of penalty point systems within the United Kingdom, it would be difficult in the view of the UK government to pursue such recognition from a British/Irish perspective. In addition there would be a number of significant legal and practical hurdles to overcome were full mutual recognition to be pursued. For example, the two UK systems provide for a direct court intervention prior to the application of a disqualification resulting from penalty points. No similar provision is, or could be, provided for in the Republic of Ireland.

Notwithstanding any such difficulties, arrangements for such recognition could be pursued between the various systems in the future. In that context, the UK side believe it would be preferable if the system in the Republic of Ireland was fully rolled out before detailed consideration could be given to such a development.

Legal Framework for Mutual Recognition

EU Convention on Mutual Recognition of Driving Disqualification

14. A Convention of Driving Disqualification was adopted by EU Member States in 1998. The Road Traffic Act 2002 provides a framework for implementing the Convention in the Republic of Ireland. Section 9 of the Act is designed to facilitate the entry into force of the framework for bilateral co-operation with other EU Member States in applying driving disqualifications for a number of serious road traffic offences committed in another Member State.

15. At a meeting of the North/South Ministerial Council in April 2002, the Council noted the position with regard to penalty points in the Republic of Ireland and the existing penalty points system in Northern Ireland. The Council noted the position with regard to the European Convention on Driving Disqualification. The Council also noted the potential that exists to provide for the pursuit of the payment of traffic fines on a cross border basis in the context of the potential adoption of the Agreement on Co- Operation between Member States of the European Union in Proceedings for Road Traffic Offences.

Position of Irish Government

16. Mr. Seamus Brennan TD, the Irish Minister for Transport , made the following points in regard to the issue of mutual recognition of penalty points on the island of Ireland.

- The Minister highlighted the importance of mutual recognition of Penalty Points as an issue that both his Department and the Government generally believe to be of utmost importance in changing driving behaviour.
- Such a system could be implemented North and South as provided for under the Convention of Driving Disqualification adopted by the EU in 1998. Section 9 of the Irish Road Traffic Act provides a framework whereby the Irish Government can negotiate, with other EU partners, a bilateral agreement to provide for mutual recognition of penalty points within both jurisdictions. To date the Convention has not been transposed into domestic British law.
- The Minister had met his NIO counter part, Ms. Angela Smith MP and both had agreed in principle that Mutual Recognition of the Penalty Points System North and South would be an important issue to advance. Officials from the Department of Transport are continuing to work with their counterparts in Northern Ireland on this issue.
- The matter had already been noted in the work programme of the North/South Ministerial Council. The issue had also been raised at a meeting of transport officials within the British - Irish Council framework in a discussion from an east-west perspective of measures to improve road safety.
- There are still many problems concerning the implementation of such a system on a north south basis. Firstly, within the United Kingdom two separate systems operate. One system within England, Scotland and Wales and another stand alone system in Northern Ireland. This issue must be rectified before mutual recognition could be implemented on an all Ireland basis. Secondly, while there are similarities between the Irish and the British penalty points systems, both UK systems provide for direct Court intervention before a driver is disqualified. No such intervention is required in the Republic.

Position of Northern Ireland Office

17. Ms. Angela Smith MP, Parliamentary Under-Secretary of State at the NIO, made the following points in regard to the issue

- The Minister had met with Mr. Seamus Brennan TD, Minister for Transport, and both Ministers were committed in principle to providing for mutual recognition of penalty points, if the practical difficulties could be overcome.
- Before the question of mutual recognition of penalty points between Northern Ireland and the Republic of Ireland could be addressed, the question of the lack of harmonisation between Northern Ireland and Great Britain had to be addressed.
- A Bill currently before Parliament (the Crime (International Co-operation) Bill) would provide for the mutual recognition of driving disqualifications in Northern Ireland and Great Britain, although there would still be no mutual recognition of penalty points awarded in the two UK jurisdictions. The Bill is expected to receive Royal assent in mid-November. Harmonisation of penalty points would require further legislation.
- The next step would be to harmonise the systems between the UK and the Republic of Ireland. At present, there was not necessarily any correspondence either between offences in both jurisdictions or between the penalty points imposed for commission of those offences. Such harmonisation would not be possible before the Irish system, and particularly its computerisation, was fully up and running. Further, it would require an alignment of Irish legislation and UK legislation.
- In the meantime, a number of other steps were being taken in both Northern Ireland and the Republic of Ireland to improve road safety. In particular, a consultation document on revising road traffic penalties in Northern Ireland would be issued in March 2003.

Policing Perspective

18. The Chief Constable of the PSNI indicated that the penalty points system in Northern Ireland was working well and was having an effect. The PSNI have an ongoing campaign -Operation Viper -which is operationally aimed at improving detection and enforcement of driving offences. An example of increased detection was that in one 60 hour period, Operation Viper had recorded 6036 driving offences.

19. In regard to speeding offences, and in particular offences by drivers from other jurisdictions, accurate figures are not available, since there are currently no static speed cameras in operation. These will be introduced under Operation Viper. Around 500 drivers from the Republic of Ireland are caught speeding on camera every year but this is an underestimate in the absence of static cameras. Accurate figures were not available for the number of drivers from Great Britain. caught

speeding. However the Chief Constable was clear that there was a much greater problem posed by drivers from the Republic of Ireland committing traffic offences in Northern Ireland than was the case with drivers from Great Britain.

20. The Commissioner of the Garda Síochána was also supportive of the penalty points system and the principle of mutual recognition. In his view the latter should be applied to all drivers breaking the law, not just between north and south but also within the EU as a whole. However at present the Gardaí were unable to endorse penalty points on the licence of a driver in another jurisdiction. What was required was to get an acceptable legal framework which overcame this difficulty but this would require considerable thought and effort. In regard to the penalty points system in the Republic of Ireland, his force was applying the system well and also identifying operational issues which arose. These were reported to the Department of Justice in regular meetings held with the Garda Síochána. He felt that legislators were keen to develop and refine the system to make it more effective, but to do this further legislation would need to be put in place to cover all aspects of the regime.

21. As regards the extent of the problems caused in the Republic by drivers from Northern Ireland, the Commissioner indicated that no accurate indicative figures were available. Fixed camera installations were not in place and manual systems were used. The main operational procedure used by the Gardaí was to intercept drivers. Their experience was that there was a significant number of NI drivers committing speeding offences. However in regard to road fatalities, particularly in the border counties area, fatality incidents involve very few NI drivers. It was also noted that in the past, in regard to the imposition of spot fines on NI drivers through the intercept procedure, there was up to 80% compliance with payment of fines fall in this However with the penalty points system in force, it was noted that this level of compliance with the payment of fines by northern Ireland drivers had fallen. It is not possible to enforce the endorsement of penalty points on licences of NI drivers through the police or courts system.

22. The Commissioner noted that in the Republic of Ireland, the introduction of the penalty points system had improved driver behaviour and awareness. There were significantly less arrests for speeding offences. As regards the mutual recognition of penalty points on a north - south basis, he would welcome measures to bring this about. There was a significant problem with Northern Ireland drivers committing traffic offences in the Republic of Ireland. When it was put to the Commissioner that the main problem was on the north-south dimension rather than the east-west one, he concurred. However mutual recognition was an issue for legislators as the police had only a law enforcement function. He noted that police technology in regard to detections and issues such as driver registration identification had improved and were in place , both north and south. But in the absence of legislation, the problem of access to driver licence files, and mutual endorsement of penalty points remained. He had no problem with the principle of mutual recognition but the real question was whether a system could be put in place which would work, and take into account challenges that might be made within court systems and their jurisdiction, as well as the fact that the Republic had a written constitution. He noted that courts

had no enthusiasm for systems which were not enforceable. In regard to differences in the number of penalty points applied north and south for the same offence, he felt this would raise difficulties which could lead to court challenges. However even if the scheme of penalty points and fines was identical in the Republic of Ireland, Northern Ireland and Great Britain., he felt there would still be issues to resolve in regard to jurisdiction and enforcement. However the concept of offences committed in one jurisdiction being tried in another jurisdiction had been established in respect of certain specified serious crimes.

23. The Commissioner noted that the overall objective of enforcement measures, including penalty points, was improved road safety and better driving behaviour. He would favour any measures to have an all-island approach in achieving this objective. The Garda Síochána, through their close co-operation with the PSNI, were clear that both forces shared this objective. Within the North/South Ministerial Council framework, his force had contributed to proposals for a north-south Road Safety Traffic plan and measures such as a schools safety education programme. He agreed that there was scope and value in developing road safety strategies on an all -island basis to include agencies involved in this area.

Road Safety and Penalty Points

24. Evidence from the National Safety Council of Ireland indicated that the introduction of the penalty points system in Ireland for speeding offences had resulted in a dramatic reduction in both road fatalities and serious injuries. During the period November 2002 to September 2003, with the system operating, road fatalities were 297, 81 less than the same November to September period prior to the system being in force. The reduction in fatalities was across most age groups and categories of road user as indicated in Annex 1 to this report. Reduction in serious injuries is estimated at 20%. An example of serious injury reduction was that in the first six months of the operation of penalty points, the National Spinal Injuries Unit in Dublin treated half the number of road accident victims dealt with for the same period the previous year (17 compared to 34).

25. In the view of the National Safety Council, the introduction of penalty points has clearly made a significant impact in reducing road fatalities and injuries. There have also been other factors contributing, following from the current national road safety strategy being pursued in the Republic of Ireland. This strategy is aimed at a least a 20% reduction in fatalities per year over 5 years. Important elements of this strategy are educational programmes on road safety in media and through the schools system, improved road engineering particularly at accident black spots and higher level of police enforcement of traffic regulations, and these have also contributed to the fall in fatalities. In its current educational campaigns the National Safety Council is particularly targeting motor-cyclists. Motor-cycle registration has risen significantly and this category of road user is the only one to show an increased fatality rate in the period since penalty points were introduced.

26. Since the overall objective of the National Safety Council is an improved driving culture and safer road use by all categories, the penalty points scheme is a very important element to achieve this, and it should be developed through improved technology use and increased enforcement levels. The ultimate objective is in fact to achieve a fall in detection levels, indicating an improvement in driving standards.

27. On the question of mutual recognition of penalty points, the National Safety Council would welcome measures towards this as helpful. There was a heavy volume of traffic north-south and vice versa, particularly on the main Belfast-Dublin routes. Evidence indicated that there was a larger volume of Northern Ireland drivers going south than southern drivers going north. Mutual recognition would be a helpful tool in improving driver behaviour within these flows. They were conscious of difficulties in achieving this - a need for harmonisation between Northern Ireland and Great Britain, and in Ireland between north and south. The different systems applying, one based on court intervention and the other not so based, was also an obstacle. An alignment between the jurisdictions on the level of monetary fines and penalty points would be helpful. In this regard there was also a need to have a continual assessment of trend data on the effect of the penalty points systems on driving behaviour.

28. On other aspects of road safety strategy, the National Safety Council worked closely in co-operation with the Northern Ireland Department of the Environment on safety strategies. Both agencies co-financed with an insurance company partner a safety campaign on broadcast media. There was consultation on safety education programmes in both primary and secondary schools and this was an area where there was further potential for greater north-south co-operation to achieve maximum impact. The National Safety Council also felt that in the Republic of Ireland the number of road safety officers within local authorities could be increased and put on a full time basis, as was the case in Northern Ireland.

Summary of Findings

Road Safety

29. There was a clear consensus at the political, police and road safety agency level that the penalty points systems had a very significant impact in improving driver behaviour and reducing the levels of road fatalities and serious injuries. Figures for the Republic of Ireland on fatality and injury levels since the introduction of the points system illustrate this well. At the enforcement level, there is scope for further developing the technology for detection, such as fixed speed camera installation and access to driver file registers. In view of the overall objective of an improved driving and safety culture, it will be important to continually assess detection and endorsement levels to measure the effectiveness of the points systems in place.

30. It was noted that North-South co-operation on road safety occurs at both political level , as well as on the operational level of policing and the activities of road

safety agencies. This co-operation is to be welcomed and encouraged and there would seem to be scope for further development in this area.

Mutual Recognition of Penalty Points.

31. In view of the significant volume of driver traffic between the Republic of Ireland and Northern Ireland, it is evident that driving behaviour and road safety in both jurisdictions would be improved if this traffic were brought within an enforcement regime where penalty points for traffic offences, in particular speeding, could be endorsed on driver licences on the basis of mutual recognition. All parties who gave evidence to the inquiry agreed that this would be desirable

32. There was however no common view among the parties as to how mutual recognition was in practice to be achieved, although there was a shared view of the difficulties to be overcome. The solution lies at the political level, through legislation. At the enforcement level, both the PSNI and the Garda Síochána expressed themselves able and willing to operate such a system when legislated.

33. At present there are three separate systems of penalty points in place - in the Republic of Ireland, in Northern Ireland and in Great Britain. The system in the Republic of Ireland was recently introduced, in November 2002, and at present only 3 out of a possible 69 offences provided for in the legislation incur penalty points. It is intended to progressively roll-out the system to include offences in the enforcement of the penalty point system.

34. There is no mutual recognition arrangement between Northern Ireland and Great Britain. In the Republic of Ireland the penalty points system is not based on court intervention, whereas it is court-based in both Northern Ireland and the Great Britain. There is in some instances a difference in the number of penalty points incurred for a similar offence in the Republic of Ireland and Northern Ireland, for example a speeding offence incurs two points in the Republic and three points in Northern Ireland.

Conclusions

35. The Committee takes the view that there is a compelling case on road safety grounds for developing procedures which would allow for the mutual recognition of penalty points between the Republic of Ireland and Northern Ireland. This would be welcomed by the policing services and road safety agencies north and south, and would build upon and enhance existing co-operation on road safety strategies between these agencies. Discussion of mutual recognition in the context of improved road safety co-operation has already taken place within the North/South Ministerial Council. In the shorter term, it would seem desirable therefore to pursue mutual recognition on an all-island basis to ensure liability for penalty point endorsement for all drivers, regardless of the jurisdiction of the licensing authority.

36. The Committee also believes that, as a longer-term objective, it is desirable to progress administrative and legislative arrangements and proposals which would enable a mutual recognition system to be put in place and enforced on an east-west basis between the Republic of Ireland and the United Kingdom as a whole.

Options

37. There would seem to be four options on how to proceed with the issue of mutual recognition of penalty points;

a) pursue harmonisation of the systems in Northern Ireland and Great Britain. and then propose that the system in the Republic of Ireland be aligned with the U.K. This would be a politically difficult approach.

b) attempt to harmonise all three systems, Northern Ireland, Great Britain. and the Republic of Ireland at the same time. This would be a desirable approach but would be a complicated one.

c) pursue mutual recognition of penalty points on a north-south basis without necessarily harmonising the systems entirely. This approach may necessitate introducing equivalent points, north and south, for similar offences, such as speeding.

d) provide for a system whereby the authorities in a driver's home jurisdiction may be notified of offences committed in another; appropriate penalties (whether fines or points on the licence) may then be imposed by the home jurisdiction as if the offence had been committed there. The Committee understands that there are precedents for this approach not only in respect of serious crimes, but also - in the U.K. - of other crimes such as the handling of stolen goods.

Recommendations

38. It is clear from the evidence collected by the Rapporteurs that a far greater danger to road safety is posed by drivers from the north committing offences in the south, and vice versa, than by drivers from Great Britain committing offences either north or south. The Committee therefore takes the view that mutual recognition of penalty points can and should be pursued on a north-south basis before any measures to deal with mutual recognition on an east-west basis.

39. The Committee's view is that the simplest and most effective option in the short to medium term would be to pursue option d) above. The Committee therefore recommends that a system established whereby the relevant authorities in the jurisdiction where an offence takes place submit a report to the authorities in the driver's home jurisdiction, and appropriate penalties are imposed as if the offence had been committed there.

40. This will provide a swift and, we hope, effective solution to the immediate problem, without the need for major legislative reform in any jurisdiction. In the longer term, however, it would be desirable for the relevant authorities in Northern Ireland and the Republic of Ireland to consult on legislative arrangements and procedures with a view to putting in place a single penalty points system and enforcement procedures to operate both north and south. Arrangements should then be progressed to incorporate the system in Northern Ireland into a single U.K. system to allow for an eventual regime of mutual recognition to be put in place between the whole of the U.K. and the Republic of Ireland.

41. The Committee further considers that ensuring a best practice road safety regime in Ireland would benefit from the establishment of a single body to deal with road safety issues on an all-island basis. In the interim co-operation between north and south on road safety issues should be further developed.

DRAFT RESOLUTION

That the Body takes note of the report of the Committee on Sovereign Affairs on mutual recognition of penalty points and agrees with the recommendations stated in the report, and that the report should be forwarded to the British and Irish Governments for observations.

MINUTES OF PROCEEDINGS RELATING TO THE REPORT

MONDAY 19TH OCTOBER 2003

THE COMMITTEE MET AT THE HANBURY MANOR HOTEL, WARE, HERTFORDSHIRE

Members present:

Mr Jim O'Keeffe TD (in the Chair)

| | |
|-------------------------------------|---------------------|
| Mr Michael Mates MP (Vice-Chairman) | Helen Jackson MP |
| Lord Brooke of Sutton Mandeville | Mr Tony Killeen TD |
| Lord Dubs | Andrew Mackinlay MP |
| Baroness Harris of Richmond | Mr Ned O'Keeffe TD |
| Senator Brian Hayes | |

The Committee deliberated.

Draft report [Mutual Recognition of Penalty Points], proposed by Lord Dubs and Senator Hayes, Rapporteurs, brought up and read.

Ordered, That the Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 41 read and agreed to.

Resolved, That the Report be made to the Body.

The Committee further deliberated.

[Adjourned to a date and time to be fixed by the Chairman.]

Committee on Sovereign Affairs

Report on Mutual Recognition of Penalty Points

Rapporteurs: Lord Alf Dubs
Senator Brian
Hayes

Persons giving evidence to the Rapporteurs

Mr. Seamus Brennan T.D. Minister for Transport and Communications
Ms. Hilary Dalton. Department of Transport and Communications

Ms. Angela Smith MP Minister of State at the Northern Ireland Office
Mr. Donald Armstrong. Northern Ireland Office

Mr. Hugh Orde. Chief Constable of the Police Service of Northern Ireland

Mr. Noel Conroy. Commissioner of the Garda Síochána
Mr. Fachtina Murphy. Assistant Garda Commissioner

Mr. Patrick C. Costello. Chief Executive of National Safety Council

APPENDICES TO REPORT ON PENALTY POINTS

1. Impact of Penalty Points in Republic of Ireland
2. Penalty Point Offences in Republic of Ireland
3. Penalty Point Offences in Northern Ireland
4. Penalty Point Offences in UK
5. Differences in Penalty Points between UK and Northern Ireland

APPENDIX 1

National Safety Council of Ireland - Impact of Penalty Points on Road Fatalities

Impact of Penalty Points

| Age | Nov 02/Sept 03 | Nov 01/Sept 02 | + /- % |
|--------------|----------------|----------------|-------------|
| 0-15 | 16 | 24 | -33% |
| 16-25 | 83 | 114 | -27% |
| 26-35 | 59 | 64 | -8% |
| 36-45 | 44 | 36 | +22% |
| 46-55 | 17 | 33 | -48% |
| 56-65 | 17 | 25 | -32% |
| 66-75 | 15 | 24 | -37% |
| 76+ | 30 | 33 | -9% |
| Total | 281 | 353 | -20% |

| Road User | Nov 02/Sept 03 | Nov 01/Sept 02 | + /- % |
|--------------|----------------|----------------|-------------|
| Pedestrian | 52 | 84 | -38% |
| Driver | 117 | 146 | -20% |
| Passenger | 57 | 72 | -21% |
| Motorcyclist | 41 | 35 | +17% |
| Pillion Pass | 2 | 4 | -50% |
| Cyclist | 12 | 12 | 0% |
| Total | 281 | 353 | -20% |

APPENDIX 2

PENALTY POINTS - REPUBLIC OF IRELAND
PENALTY POINT PROVISIONS OF ROAD TRAFFIC ACT 2002

| | General Description of Offence | Penalty Points on Payment of Fixed Charge (if applicable) | Penalty Points on Conviction |
|----|---|---|------------------------------|
| 1 | Using vehicleC | 1 | 3 |
| | (a) whose weight unladen exceeds maximum permitted weight, | | |
| | (b) whose weight laden exceeds maximum permitted weight, or | | |
| | (c) any part of which transmits to ground greater weight than maximum permitted weight. | | |
| 2 | Using vehicle without test certificate | | 5 |
| 3 | Driving vehicle before remedying dangerous defect | | 3 |
| 4 | Driving without a licence | 2 | 5 |
| 5 | Applying for a licence while disqualified for so applying | 1 | 3 |
| 6 | Failure to produce a licence to member of Garda Síochána | 1 | 3 |
| 7 | Exceeding a speed limit | 2 | 4 |
| 8 | Driving vehicle when unfit | | 3 |
| 9 | Careless driving | | 5 |
| 10 | Driving dangerously defective vehicle | | 5 |
| 11 | Parking vehicle in dangerous position | | 5 |
| 12 | Using vehicle without insurance or guarantee | | 5 |
| 13 | Failure to stop vehicle at school warden sign | 1 | 4 |
| 14 | Breach of duties on occurrence of accident | | 5 |
| 15 | Failure to stop vehicle when so required by member of Garda Síochána | 2 | 5 |
| 16 | Furnishing false or misleading particulars in connection with application for licence | 1 | 3 |

| | | | |
|----|--|---|---|
| 17 | Using vehicle whose width exceeds maximum permitted width | 1 | 3 |
| 18 | Using vehicle whose length exceeds maximum permitted length | 1 | 3 |
| 19 | Using a vehicle with defective or worn tyres | 2 | 4 |
| 20 | Using a vehicle from which driver has inadequate view of road and traffic | 1 | 3 |
| 21 | Using vehicle whose windscreen is not of safety glass or gives distorted view | 1 | 3 |
| 22 | Using vehicle not fitted with efficient windscreen wiper | 1 | 3 |
| 23 | Using vehicle not fitted with adequate driving mirror | 1 | 3 |
| 24 | Using vehicle whose brakes are inadequate | 1 | 3 |
| 25 | Using vehicle not fitted with adequate anchorage points for safety belts | 2 | 4 |
| 26 | Using vehicle not fitted with safety belts | 2 | 4 |
| 27 | Using motor cycle without wearing crash helmet | 2 | 4 |
| 28 | Permitting passenger not wearing crash helmet to be carried on motor cycle | 2 | 4 |
| 29 | Using vehicle not equipped with rear underrun protective device | 1 | 3 |
| 30 | Using vehicle not equipped with side-guard | 1 | 3 |
| 30 | Using vehicle when driver not wearing safety belt or permitting person under 17 to occupy front seat when not wearing safety belt or appropriate child restraint | 2 | 4 |
| 32 | Driver of vehicle permitting person under 17 to occupy rear seat when not wearing safety belt or appropriate child restraint | 2 | 4 |
| 33 | Using vehicle not equipped with speed limitation device | 1 | 3 |
| 34 | Using vehicle equipped with speed limitation device not complying with specified requirements | 1 | 3 |
| 35 | Using vehicle equipped with speed limitation device | 1 | 3 |

| | | | |
|----|---|---|---|
| | not sealed or not sealed in compliance with specified requirements | | |
| 36 | Use by driver of vehicle of mobile phone while in the vehicle in a public place except when the vehicle is parked | 1 | 3 |
| 37 | Using vehicle not equipped with required lamps and identification mark lighting | 1 | 3 |
| 38 | Using trailer not equipped with required lamps and identification mark lighting | 1 | 3 |
| 39 | Using vehicle not equipped with required rear projecting load lamp or lateral projecting load lamp | 1 | 3 |
| 40 | Using trailer not equipped with required marker lamp | 1 | 3 |
| 41 | Using public service vehicle not equipped with required internal lighting | 1 | 3 |
| 42 | Using vehicle not equipped with required direction indicators | 1 | 3 |
| 43 | Contravention of general speed restriction for vehicles | 2 | 4 |
| 44 | Failure by vehicle to yield right of way | 2 | 4 |
| 45 | Failure to drive vehicle on left | 1 | 3 |
| 46 | Dangerous overtaking | 2 | 5 |
| 47 | Contravention of requirements regarding driving of vehicles at road junctions | 1 | 3 |
| 48 | Contravention of requirements regarding reversing of vehicles | 1 | 3 |
| 49 | Contravention of restrictions on driving vehicle on footway | 1 | 3 |
| 50 | Contravention of restrictions on driving vehicle on cycle track | 1 | 3 |
| 51 | Contravention of requirement to turn vehicle left onto a roundabout | 1 | 3 |
| 52 | Contravention of prohibition of driving vehicle along or across median strip | 1 | 3 |

| | | | |
|----|--|---|---|
| 53 | Failure of driver of vehicle to comply with signals given by members of Garda Síochána | 1 | 3 |
| 54 | Failure to stop vehicle before stop sign or stop line | 2 | 4 |
| 55 | Failure of vehicle to yield right of way at yield sign or yield line | 2 | 4 |
| 56 | Failure of vehicle to comply with mandatory traffic signs | 1 | 3 |
| 57 | Failure of vehicle to comply with prohibitory traffic signs | 1 | 3 |
| 58 | Failure of vehicle to keep left at certain signs | 1 | 3 |
| 59 | Crossing of white lines by vehicle | 2 | 4 |
| 60 | Entry by vehicle on hatched marked area of roadway | 1 | 3 |
| 61 | Failure by vehicle to comply with traffic lane markings | 1 | 3 |
| 62 | Failure by vehicle to comply with traffic sign signifying that a roadway not be entered | 1 | 3 |
| 63 | Failure by vehicle to obey traffic lights or to halt at traffic sign adjacent to such lights | 2 | 5 |
| 64 | Failure by vehicle to obey traffic lights at railway level crossing or to halt at traffic sign adjacent to such lights | 2 | 5 |
| 65 | Prohibition on driving vehicle against traffic flow on motorway | 2 | 4 |
| 66 | Prohibition on driving vehicle on part of motorway not a carriageway | 1 | 3 |
| 67 | Prohibition of driving vehicles with 50 mph speed limit on outside traffic lane of carriageway of motorway | 1 | 3 |
| 68 | Passing of sign indicating height restriction by vehicle to which sign applies | 2 | 4 |
| 69 | Holder of provisional licence driving vehicle (other than motor cycle) when not accompanied by and under supervision of qualified person | 1 | 3 |

APPENDIX 3 - PENALTY POINTS. NORTHERN IRELAND

| PROVISION CREATING OFFENCE | GENERAL NATURE OF OFFENCE | PENALTY POINTS |
|----------------------------|---|--|
| | | |
| ROAD TRAFFIC (NI) | | |
| ORDER 1981 | | |
| | | |
| Article 3(1) | Driving without a licence. | 3 to 6 |
| | | |
| Article 13 | Failure to comply with any conditions prescribed for driving under provisional licence. | 3 to 6 |
| | | |
| Article 14 | Failure to comply with any conditions prescribed for driving under provisional licence where conditions applicable to driving under full licence. | 3 to 6 |
| | | |
| Article 19 | Exceeding speed limit in vehicle required to display or displaying learner-driver's mark. | 3 to 6 if committed where the mark is required to be displayed |
| | | |
| Article 19A | Failure to comply with restriction on restricted drivers. | 3 to 6 |
| | | |
| Article 79A | Driving without a taxi driver's licence. | 3 to 6 |
| | | |
| Article 90 | Driving, or causing or permitting a person to drive, motor vehicle while uninsured. | 6 to 8 |
| | | |
| Article 154(1) | Driving with uncorrected defective eyesight. | 3 |

| | | |
|----------------------------|--|----------------|
| | | |
| Article 154(2) | Refusal to submit to test to ascertain whether offence committed under 154(1). | 3 |
| | | |
| Article 155 | Exceeding speed limit. | 3 to 6 |
| | | |
| Article 156 | Exceeding temporary or experimental speed limit. | 3 to 6 |
| | | |
| Article 167(1)(a) | Driving motor vehicle while disqualified by reason of being under age. | 3 to 6 |
| | | |
| Article 167(1)(b) | Driving motor vehicle while otherwise disqualified. | 6 |
| | | |
| PROVISION CREATING OFFENCE | GENERAL NATURE OF OFFENCE | PENALTY POINTS |
| | | |
| Article 175(2) | Failure of driver of mechanically propelled vehicle to comply with duties on occurrence of accident caused by that vehicle. | 5 to 10 |
| | | |
| Article 177 | Failure of driver or owner of vehicle or other person required to do so, to give information for purposes of identification to police. | 3 |
| | | |
| ROAD TRAFFIC (NI) | | |
| ORDER 1995 | | |
| | | |
| Article 9 | Causing death, or grievous bodily injury, by dangerous driving. | 3 to 11 |
| | | |
| Article 10 | Dangerous driving. | 3 to 11 |
| | | |

| | | |
|----------------------------|---|---|
| Article 12 | Careless, and inconsiderate, driving. | 3 to 9 |
| | | |
| Article 14 | Causing death, or grievous bodily injury, by careless driving when under influence of drink or drugs. | 3 to 11 |
| | | |
| Article 15(1) | Driving or attempting to drive when unfit to drive through drink or drugs. | 3 to 11 |
| | | |
| Article 15(2) | Being in charge of a mechanically propelled vehicle when unfit to drive through drink or drugs. | 10 |
| | | |
| Article 16(1)(a) | Driving or attempting to drive with excess alcohol in breath, blood or urine. | 3 to 11 |
| | | |
| Article 16(1)(b) | Being in charge of a motor vehicle with excess alcohol . in breath, blood or urine | 10 |
| | | |
| Article 17 | Failing to provide a specimen of breath for a preliminary breath test. | 4 |
| | | |
| PROVISION CREATING OFFENCE | GENERAL NATURE OF OFFENCE | PENALTY POINTS |
| | | |
| Article 18 | Failing to provide specimen for analysis or laboratory test. | 3 to 11 where the specimen was required to ascertain ability to drive or proportion of alcohol at time offender was driving or attempting to drive. 10 in any other case. |
| | | |

| | | |
|----------------------------|---|----------------|
| Article 32 | Leaving vehicles in dangerous | 3 |
| | | |
| Article 34 | Carrying passenger on motor bicycle contrary to Article 34. | 3 |
| | | |
| Article 49 | Failing to comply with traffic directions or traffic signs. | 3 |
| | | |
| Article 54 | Using vehicle in dangerous condition, etc. | 3 |
| | | |
| Article 56 | Breach of requirement as to brakes, steering-gear or tyres. | 3 |
| | | |
| OTHER OFFENCES | | |
| | | |
| | Manslaughter by the driver of a motor vehicle. | 3 to 11 |
| | | |
| | Contravention by the driver of a motor vehicle of regulation 8, 9, 10 or 12(2) of the "Zebra" Pedestrian Crossings Regulations (Northern Ireland) 1974 (S.R. 1974 no.15). | 3 |
| | | |
| | Contravention by the driver of a motor vehicle of regulation 7 (school crossing patrol sign) of the Traffic Signs Regulations (Northern Ireland) 1979 (S.R. 1979 No.386). | 3 |
| | | |
| | Contravention by the driver of a motor vehicle of regulation 6(6), 8(2) or 12 of the (Pelican) Pedestrian Crossings Regulations (Northern Ireland) 1989, (S.R. 1989 No. 145). | 3 |
| | | |
| PROVISION CREATING OFFENCE | GENERAL NATURE OF OFFENCE | PENALTY POINTS |
| | | |

| | | |
|----------------|---|---|
| OTHER OFFENCES | | |
| | | |
| | An offence under Article 20 of the Roads (Northern Ireland) Order 1993 of using a special road in contravention of paragraph (1) or (2) of that Article or of regulations made under paragraph (3) of that Article. | 3 to 6 if committed in respect of a speed restriction or 3 in any other case. |

APPENDIX 4

PENALTY POINTS - UK. DVLA ENDORSEMENT CODES

| Code | Offence | Penalty Points |
|----------------------------|---|----------------|
| Accident Offences | | |
| AC10 | Failing to stop after an accident | 5-10 |
| AC20 | Failing to give particulars or to report an accident within 24 hours | 5-10 |
| AC30 | Undefined accident offences | 5-10 |
| Disqualified Driver | | |
| BA10 | Driving while disqualified by order of court | 6 |
| BA30 | Attempting to drive while disqualified by order of court | 6 |
| Careless Driving | | |
| CD10 | Driving without due care and attention | 3-9 |
| CD20 | Driving without reasonable consideration for other road users | 3-9 |
| CD30 | Driving without due care and attention or without reasonable consideration for other road users | 3-9 |
| CD40 | Causing death by careless driving when unfit through drink | 3-11 |
| CD50 | Causing death by careless driving when unfit through drugs | 3-11 |
| CD60 | Causing death by careless driving with alcohol level above the limit | 3-11 |

| | | |
|------|--|------|
| CD70 | Causing death by careless driving then failing to supply a specimen for analysis | 3-11 |
|------|--|------|

Construction and Use Offences

| | | |
|------|--|---|
| CU10 | Using a vehicle with defective brakes | 3 |
| CU20 | Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition | 3 |
| CU30 | Using a vehicle with defective tyre(s) | 3 |
| CU40 | Using a vehicle with defective steering | 3 |
| CU50 | Causing or likely to cause danger by reason of load or passengers | 3 |

Reckless/Dangerous Driving

| | | |
|------|---|------|
| DD40 | Dangerous Driving | 3-11 |
| DD60 | Manslaughter or culpable homicide while driving a vehicle | 3-11 |
| DD80 | Causing death by dangerous driving | 3-11 |

Drink or Drugs

| | | |
|------|---|------|
| DR10 | Driving or attempting to drive with alcohol level above limit | 3-11 |
| DR20 | Driving or attempting to drive while unfit through drink | 3-11 |
| DR30 | Driving or attempting to drive then failing to supply a specimen for analysis | 3-11 |
| DR40 | In charge of a vehicle while alcohol level above limit | 10 |
| DR50 | In charge of a vehicle while unfit through drink | 10 |
| DR60 | Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive | 10 |
| DR70 | Failing to provide a specimen for breath test | 4 |
| DR80 | Driving or attempting to drive when unfit through drugs | 3-11 |
| DR90 | In charge of a vehicle when unfit through drugs | 10 |

Insurance Offences

| | | |
|------|---|-----|
| IN10 | Using a vehicle uninsured against third party risks | 6-8 |
|------|---|-----|

Licence Offences

| | | |
|------|--|-----|
| LC20 | Driving otherwise than in accordance with a licence | 3-6 |
| LC30 | Driving after making a false declaration about fitness when applying for a licence | 3-6 |
| LC40 | Driving a vehicle having failed to notify a disability | 3-6 |
| LC50 | Driving after a licence has been revoked or refused on medical grounds | 3-6 |

Miscellaneous Offences

| | | |
|------|---|----------------|
| MS10 | Leaving a vehicle in a dangerous position | 3 |
| MS20 | Unlawful pillion riding | 3 |
| MS30 | Play street offences | 2 |
| MS50 | Motor racing on the highway | 3-11 |
| MS60 | Offences not covered by other codes | As appropriate |
| MS70 | Driving with uncorrected defective eyesight | 3 |
| MS80 | Refusing to submit to an eyesight test | 3 |
| MS90 | Failure to give information as to identity of driver etc. | 3 |

Motorway Offences

| | | |
|------|---|---|
| MW10 | Contravention of Special Roads Regulations (excluding speed limits) | 3 |
|------|---|---|

Pedestrian Crossings

| | | |
|------|--|---|
| PC10 | Undefined Contravention of Pedestrian Crossing Regulations | 3 |
| PC20 | Contravention of Pedestrian Crossing Regulations with moving vehicle | 3 |
| PC30 | Contravention of Pedestrian Crossing Regulations with stationary vehicle | 3 |

Speed Limits

| | | |
|------|---|-----|
| SP10 | Exceeding goods vehicle speed limits | 3-6 |
| SP20 | Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles) | 3-6 |
| SP30 | Exceeding statutory speed limit on a public road | 3-6 |
| SP40 | Exceeding passenger vehicle speed limit | 3-6 |
| SP50 | Exceeding speed limit on a motorway | 3-6 |

SP60 Undefined speed limit offence 3-6

Traffic Directions and Signs

| | | |
|------|--|---|
| TS10 | Failing to comply with traffic light signals | 3 |
| TS20 | Failing to comply with double white lines | 3 |
| TS30 | Failing to comply with a 'Stop' sign | 3 |
| TS40 | Failing to comply with direction of a constable/warden | 3 |
| TS50 | Failing to comply with a traffic sign (excluding 'stop' signs, traffic lights or double white lines) | 3 |
| TS60 | Failing to comply with a school crossing patrol sign | 3 |
| TS70 | Undefined failure to comply with a traffic direction sign | 3 |

Totting Disqualifications

TT99 Totting up disqualification (12 penalty points within 3 years)

Theft or Unauthorised Taking

UT50 Aggravated taking of a vehicle 3-11

Aiding, Abetting, Counselling or Procuring

Offences as coded above, but 0 is changed to 2

Causing or Permitting

Offences as coded above, but 0 is changed to 4

Inciting

Offences as coded above, but 0 is changed to 6

APPENDIX 5

DRIVING DISQUALIFICATIONS: DIFFERENCES BETWEEN GREAT BRITAIN AND NORTHERN IRELAND OFFENCES

There are few differences in offences between Great Britain (GB) and Northern Ireland (NI). The differences and penalties in each jurisdiction are listed below.

Offences in NI which are not so in GB

- Causing GBI offences (3-11 points) There are a number of grievous bodily injury offences in NI. All such offences carry a penalty of 3-11 points. GB careless driving offences are roughly split into two groups; careless driving and causing death by careless driving with the latter carrying a penalty of 3-11 points. Causing GBI is not of course the same as causing death. In addition careless driving in GB only carries a penalty of 3-9 points.
- Exceeding speed limit in vehicle required to display or displaying learner's mark. (3-6 points)
- Failure to comply with restriction on restricted drivers. (3-6 points)
- Driving without a taxi driver's licence. (3-6 points) Although it is an offence to drive a taxi without a taxi licence in GB, the offence does not attract an endorsement.
- Learner driver riding a motorcycle over 250cc. (3-6 points)
- Learner drivers exceeding 45mph. (3-6 points)
- Offences relating to 'R' drivers. (3- 6 points) The R plate system only operates in NI and is a plate displayed by newly qualified drivers in their first year of passing a test. In addition all R drivers are restricted to 45mph.
- Wrongful use of a disabled persons badge. (3-6 points)

Offences in GB which are not so in NI

- Driving after making false declaration as to physical fitness. (3- 6 points)
- Driving after failure to notify of onset of, or deterioration in relevant or prospective disability. (3-6 points)
- Driving after refusal of licence or revocation. (3-6 points)
- Motor racing and speed trials on the highway. (3-11 points)
- Play street offences. (2 points)

In addition to the above in NI all drink driving offences (except in charge of a vehicle) attract in addition to a disqualification a mandatory re-test. In some cases a standard re-test in others an extended re-test. The type of re-test is dependent upon the seriousness of the offence. In GB drink driving offences do not automatically attract a mandatory re-test.

The High Risk offenders Scheme covers only GB and applies to those who are convicted either at more than two and a half times the legal limit or twice in a period of 10 years, or refuse to provide a sample.