



**BRITISH-IRISH
INTER-PARLIAMENTARY BODY**

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

INTERIM REPORT

from

COMMITTEE A (SOVEREIGN MATTERS)

on

PENALTY POINTS

July 2003

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.

Situation in Republic of Ireland

2. Following a commitment given in the Government Strategy for Road Safety 1998 - 2002 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 was passed in March 2002 in order to provide 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.

3. Penalty points will be applied in respect of 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.

4. 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 the National Driver File must be supported by the IT systems of the Courts and the Gardaí. The development of these IT systems is a matter for the Minister for Justice, Equality and Law Reform.

Provisions of the Penalty Points System in the Republic of Ireland

5. 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.

6. 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.

7. 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

8. 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.

Penalty Points in Northern Ireland and Mutual Recognition

9. 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 presently 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.

10. We were told that it would be difficult to pursue mutual recognition of penalty point systems in the UK and the Republic of Ireland in the absence of such recognition within the United Kingdom. We were also told that, 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.

11. Notwithstanding any such difficulties, arrangements for such recognition could, we were told, be pursued between the various systems in the future. In that context, Ministers suggested that it would be preferable if the system in the Republic was fully rolled out before detailed consideration was given to such a development.

It is also worth noting that, 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.

Potential for Mutual Recognition Convention of Driving Disqualification

12. 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. Section 9 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. Legislation to ratify the Convention is currently before the UK Parliament in the Crime (International Cooperation) Bill.

13. 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 and the existing penalty points system in Northern Ireland. The Council noted the position with regard to the European Convention on Driving Disqualifications. 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

14. At a meeting on 12 March 2003 between Mr. Seamus Brennan TD, Minister for Transport and Senator Brian Hayes, Joint Rapporteur for Committee A, the Minister 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 an 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 recently met his NIO counter part, Ms. Angela Smith MP and both 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 has already been noted in the work programme of the North South Ministerial Council. At a recent British Irish Council meeting of transport officials on Feb 21st, the issue was also discussed from an East West perspective in the context 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, the UK system provides for direct Court intervention before a driver is disqualified. No such intervention is required in the Republic.

Position of NIO

15. Lord Dubs, Joint Rapporteur for Committee A had a meeting on 27 February issue with Ms. Angela Smith MP, Parliamentary Under-Secretary of State at the NIO, who 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.
- This step was being taken by means of a Bill currently before Parliament (the Crime (International Cooperation) Bill), although it was noted that if that Bill failed to receive Royal Assent before the Northern Ireland Assembly was re-established, the process would have to start again.
- 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 to improve road safety. In particular, a consultation document on revising road traffic penalties in Northern Ireland would be issued in March.

16. Following this meeting, the NIO submitted to us a paper on the background, specific problems, present situation and proposed way forward for mutual recognition (attached as an Appendix). That paper notes that mutual recognition between Great Britain and Northern Ireland must be completed in order that the UK may ratify the Convention on Driving Disqualifications. Provision is contained in the Crime (International Cooperation) Bill allowing a negative resolution Order in Council for the Northern Ireland aspects of GB/NI mutual recognition. However, penalty points given in each jurisdiction will not be aggregated towards disqualification. The paper also notes that the timing of any proposed actions depends on the political situation in Northern Ireland.

Conclusions

15. The Joint Rapporteurs recommend :

- (i) that Committee A adopt this interim report for presentation to the Plenary session
- (ii) that Committee A agree that the joint rapporteurs will continue their enquiry on the matter and report to a future meeting of the Committee.

Appendix 1

Mutual Recognition of Driving Disqualifications and Penalty Points

Background

For some 14 years there have been efforts to bring about greater cooperation and harmony in the areas of driving offences and their respective penalties in the British Isles with a view to improving road safety. This has been difficult because there are:

1. Different legislative authorities
2. Different penalties for offences
3. Different administration systems
4. Different levels of use of technology.

Specific problems are

1. Drivers disqualified from driving in a EU Member State other than their own can still drive in their own State and therefore in all other States except the one in which the offence was committed.
2. While GB and NI licences are both UK licences and are recognised throughout the UK for driving purposes, there is no recognition of disqualifications between the two and no access to each others fixed penalty systems.
3. Drivers from NI who commit driving offences in GB, that warrant more than a caution or warning, cannot avail themselves of the fixed penalty system and therefore must go through the courts with its inconvenience (vice-versa for GB drivers in NI).
4. Drivers from NI who on committing an offence in GB are disqualified, can return to NI and continue driving, as the disqualification has no force in NI (vice-versa for GB drivers in NI).
5. Holders of provisional driving licences in either NI or GB can drive in the other jurisdiction as full licences.
6. Drivers can legally hold concurrently licences from both GB and NI.

Present situation

In June 1998 the EU States signed an agreement to introduce a Convention on Driving Disqualifications. This means that a driver disqualified for an offence in at State other than his/her own and is therefore disqualified will have that disqualification recognised by his/her own State and applied across all the EU States. The Convention will take effect 90 days after the last of the 15 States ratifies the Convention, but any States that ratify may enter into bilateral agreements with each other in advance of that time.

Ireland has already ratified the Convention and the Crime (International Co-operation) Bill presently in Parliament will ratify the Convention for the UK.

Mutual Recognition between GB and NI must be completed in order for UK ratification of the Convention. Provision is contained in the Crime (International Co-operation) Bill allowing a negative resolution Order in Council for the Northern Ireland aspects of GB/NI mutual recognition, though penalty points given in each jurisdiction will not be aggregated towards disqualification.

Harmonisation of the offences codes between NI and GB will need to be considered before aggregating of penalty points can be achieved.

Ireland has only introduced penalty points and then only for a limited number of offences. For an agreement under the Convention between UK and Ireland there must be comparable offences in each jurisdiction. These are some of the unresolved issues.

Way forward

There is no doubt that mutual recognition between Northern Ireland and Ireland would bring benefits for road safety and the following may be a way forward:

1. Achieve ratification of the EU Convention on Driving Disqualifications by the UK including the measures presently in the Crime Bill and the corresponding Order in Council.
2. Enter into discussions on a bilateral agreement with Ireland on the recognition of disqualifications. This will deal with the most dangerous situations, those who have persistently gathered points for driving offences.
3. Work towards harmonising the penalty points between GB and NI and bringing legislation forward to permit aggregation of points no matter where in UK they are awarded.
4. As Ireland develops its penalty points system it can take account of the UK system, thus making UK/Ireland agreement easier. Legislation would be needed for these stages too.
5. There is not mutual recognition of penalty points provided for in the EU Convention.