An Bille um Thrácht ar Bhóithre (Leasú), 2017
Road Traffic (Amendment) Bill 2017

Meabhrán Mínitheach
Explanatory Memorandum

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ROAD TRAFFIC (AMENDMENT) BILL 2017

EXPLANATORY MEMORANDUM

Purpose of the Bill

This Bill addresses an anomaly in current law which allows some people guilty of driving while above the legal alcohol limit to receive penalty points rather than the usual disqualification. The Bill will remove the penalty points option in these cases and thereby ensure that all drivers intercepted while driving over the legal alcohol limit will receive a disqualification.

In place of the current 3 penalty points provided in these cases, the Bill will introduce a 3-month disqualification period.

Financial Implications - The Bill will not have any financial impact for the Exchequer.

Section 1 - Amendment of Road Traffic Act 2010.

This section amends section 29 of the Road Traffic Act 2010 so as to remove the current option which allows some people found to be driving over the alcohol limit to receive penalty points. In place of penalty points it creates a three-month disqualification period.

The specific amendments made to section 29 are –

- Subsection (1) will be amended to change cross-references to subsection (8). Currently the cross-reference is to penalty points or disqualification under subsection (8), and this will be changed to refer only to disqualification.
- Subsection (5) will be substituted to make a similar change, so that it will refer to disqualification only and not also to penalty points.
- Subsection (6), which deals entirely with the existing penalty point option, is deleted.
- Subsection (8) is the key subsection in which, currently, persons are allowed penalty points rather than a disqualification in certain circumstances. This will be amended so that the 3 penalty points currently referred to will be replaced by a 3-month disqualification. There is also a technical correction made in subsection (8), where two current cross-references to 'subsection (14)' are changed to 'subsection (15)'.
- Subsection (11)(e) is replaced in its entirety. The effect is to replace reference to penalty points or to disqualification with reference to penalty points alone.

- Subsection (14) is amended to replace reference to penalty points or to disqualification with reference to penalty points alone.
- Subsection (15) is replaced in its entirety. The effect is to replace reference to penalty points or to disqualification with reference to penalty points alone.

Section 2 - Amendment of Road Traffic Act 2002.

(a) Section 6 of the Road Traffic Act 2002 deals with the relationship between, on the one hand, the 3-year period during which penalty points remain on a driving licence record and the 6-month period of disqualification when people pass the penalty point threshold and, on the other hand, disqualifications under other provisions. The import of section 6 is that when a person has penalty points on their driving licence record and is disqualified for another reason, the 3-year countdown for their penalty points stops during that disqualification. Equally, if during the 6 months in which a person is disqualified due to exceeding the penalty point threshold they are disqualified for another reason, that other disqualification does not count as part of the 6 months.

Currently, section 6 refers to disqualifications other than penalty point disqualifications as being disqualifications under Part III of the Road Traffic Act 1961 and disqualifications under section 9 of the Road Traffic Act 2002. Part III of the 1961 Act deals with driving licences, including the various forms of disqualification order.

The effect of section 2(a) of the present Bill will be to amend section 6 of the 2002 Act so that it will now refer to disqualifications under section 29 of the Road Traffic Act 2010 as well as to disqualifications under Part III of the 1961 Act. The reference to disqualifications under section 9 of the 2002 Act is being removed, as section 9 was repealed by section 41 of the Road Traffic Act 2016.

The effect of the change is that, where someone has been disqualified in accordance with section 29 of the 2010 Act, any penalty points they have will not continue to count down during that disqualification period and any period of disqualification for reaching the penalty point threshold will also run consecutively with the disqualification under section 29 rather than concurrently.

(b) Sections 3 and 4 of the Road Traffic Act 2002 provide for disqualification where a person has been exceeded the penalty point threshold, and for that disqualification to begin on the 'appropriate date'. Under section 5 of that Act, a notice is issued to a person when penalty points are endorsed on their driver licence record. Section 7(1) of the 2002 Act specifies that the appropriate date for disqualification purposes is 28 days from the issue of the notice to the person under section 5 of the Act relating to the penalty points which have put them over the threshold.

Section 7(2) of the 2002 Act provides that, where the appropriate date for the beginning of a period of disqualification for penalty points would fall within a period where the person is disqualified for another reason, the appropriate date is moved to the first day after the end of that other disqualification period. This means that the disqualification for penalty points will be served consecutive to and not concurrent with any other disqualification.

Section 7(2) currently refers to such other disqualifications as being under sections 3 or 9 of the 2002 Act or Part III of the Road Traffic Act 1961. Section 2(b) of the present Bill amends this to remove the reference

to section 9 – repealed by section 41 of the Road Traffic Act 2016 – and to add reference to disqualification under section 29 of the Road Traffic Act 2010.

Section 3 - Transitional.

This is a transitional provision which clarifies that the amendments to section 29 made in this Bill do not apply to offences committed or alleged to have been committed before the commencement of this Act. Section 29 of the Road Traffic Act 2010 shall therefore continue to apply to such offences or alleged offences as if section 1 had not been enacted.

Section 4 - Short title, commencement, collective citation and construction.

These are standard provisions.

An Roinn Iompair, Turasóireachta agus Spóirt,

Iúil, 2017.

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