

EXPLANATORY MEMORANDUM TO THE AGREEMENT ON THE MUTUAL RECOGNITION OF DRIVING DISQUALIFICATIONS BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND IRELAND

Title of the Agreement

Agreement on the Mutual Recognition of Driving Disqualifications between the United Kingdom of Great Britain and Northern Ireland and Ireland.

Command Paper Number: 9344

Subject Matter

The Agreement, signed on 30th October 2015, represents an undertaking between the Government of the United Kingdom of Great Britain and Northern Ireland (UK) and the Government of Ireland to mutually recognise driving disqualifications imposed by either State for certain specified offences. The Agreement provides a mechanism by which a driving disqualification imposed in the UK on an Irish resident, or holder of an Irish driving licence, for breaching certain UK traffic laws will be recognised and given effect in Ireland, and vice versa.

The offences resulting in driver disqualification for which the agreement provides mutual recognition are:-

1. Reckless or dangerous driving (whether or not resulting in death, injury or serious risk).
2. Wilful failure to carry out the obligations placed on drivers after being involved in road accidents.
3. Driving a vehicle while under the influence of alcohol or other substances affecting or diminishing the mental and physical abilities of a driver.
4. Refusal to submit to alcohol and drug tests.
5. Driving a vehicle faster than the permitted speed.
6. Driving a vehicle whilst disqualified.
7. Other conduct constituting an offence for which a driving disqualification has been imposed by the State of the offence:
 - a. of a duration of six months or more, or
 - b. of a duration of less than six months where this has been agreed between the contracting States.

Ministerial Responsibility

The Parliamentary Under Secretary of State for Transport, Andrew Jones MP, has policy responsibility for the Agreement and for implementing its provisions. The Minister of

State for Europe at the Foreign and Commonwealth Office, the Rt Hon David Lidington MP, has overall responsibility for policy relating to the UK's relations with Ireland.

Policy considerations

(i) General

The aim of this Agreement is to re-instate a legal basis for the mutual recognition of driving disqualifications with Ireland following the previous legal basis having ceased to apply from 1st December 2014.

Mutual recognition of driving disqualification between the UK and Ireland was previously in operation from 28th January 2010 to 1st December 2014 pursuant to the European Convention on Driving Disqualifications of 17th June 1998 (Convention 98/C 216/01, "the Convention"). This was given legal effect in the UK by the Crime (International Co-operation) Act 2003.

Following the Lisbon Treaty the UK opted out of the Convention, with effect from 1st December 2014, as part of a block opt-out under the Treaty on the Functioning of the European Union¹.

The UK / Irish mutual recognition provided for in the 2003 Act was retrospectively disapplied from 1st December 2014 by the Criminal Justice and Courts Act 2015. However the 2015 Act anticipated a new Agreement would be entered into between the UK and Ireland to re-instate mutual recognition. The new Agreement was entered into on the 30th October 2015 and is the subject of this Explanatory Memorandum.

Although the UK opted out of the Convention, retaining a framework for the mutual recognition of driving disqualification is important to the UK for reasons of road safety to ensure that drivers disqualified in Ireland cannot drive on UK roads. This is of particular importance to Northern Ireland due to the land border it shares with Ireland.

The process for mutual recognition would work by either State notifying the other when a driving disqualification has been imposed by a court in its territory on a person who is a resident of the other State, or the holder of a driving licence issued by that State. The State which is notified then applies that disqualification as if it had been imposed in its own jurisdiction, subject to certain conditions.

Under the Agreement, arrangements will be very similar to those under the Convention. However, the opportunity was taken to improve the mutual recognition process. Under the Convention a driving ban would be mutually recognised in the driver's country of "normal residence" if it was either the UK, or Ireland, as applicable. Enforcement

¹ This enabled the UK to decide whether it should continue to be bound by some of the pre-Lisbon EU rules in the field of police and judicial cooperation in criminal matters ("ex-third pillar measures"), or whether it should exercise its right to opt out *en masse*. On 24 July 2013, following debates in both Houses of Parliament, the Prime Minister formally notified the European Council that the UK had decided to exercise its opt-out.

problems could occur if the disqualified driver claimed they were normally resident in the country where the offence occurred. This difficulty is addressed in the new Agreement as it provides for mutual recognition where the disqualified driver is either normally resident in the other State or is the holder of a driving licence issued by the other state.

(ii) Financial

The arrangements under the Agreement will be almost identical to the arrangements under the Convention. Any changes are minor and will not add any extra costs. The administration of the Agreement will not result in any significant costs.

(iii) Reservations and Declarations

None.

Implementation

Part 3 of the Crime (International Co-operation) Act 2003 was the key legislative vehicle to provide for mutual recognition under the Convention.

Part 3 has been substantially amended by the Criminal Justice and Courts Act 2015 to replace references to the Convention with references to the agreement, and to provide for mutual recognition in pursuance of the Agreement. These amendments need to be brought into force by commencement order.

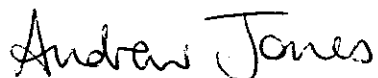
A statutory instrument (subject to an affirmative procedure) is also needed to specify the Agreement for the purposes of Part 3 of the 2003 Act.

The Agreement will come into force following completion of the required internal procedures in each country to give legal force to the Agreement and mutual exchange of notification of the completion of these procedures.

The Agreement is out of scope of the one in, three out, principle.

Consultations

Consultation took place prior to implementing mutual recognition of driving disqualifications with Ireland under the Convention. Consultation was not undertaken prior to signing the Agreement as there have been no substantial changes from the previous mutual recognition arrangements.



Andrew Jones
Parliamentary Under Secretary of State
Department for Transport