

SCHEDULES

SCHEDULE 7

Section 31

MUTUAL RECOGNITION OF DRIVING DISQUALIFICATION IN UK AND REPUBLIC OF IRELAND

PART 1

FURTHER PROVISION

Crime (International Co-operation) Act 2003 (c. 32)

- 1 Chapter 1 of Part 3 of the Crime (International Co-operation) Act 2003 (EU Convention on driving disqualifications) is amended as follows.
- 2 (1) Section 54 (road traffic offences in UK: application of section 55) is amended as follows.
 - (2) In subsection (2)—
 - (a) in paragraph (a), after “Schedule 3” insert “or Part 1 of Schedule 3A”, and
 - (b) in paragraph (b), for “that Schedule” substitute “Schedule 3 or Part 2 of Schedule 3A”.
 - (3) For subsection (3) substitute—

“(3) The minimum period is—

 - (a) for an offence mentioned in Part 2 of Schedule 3 in relation to which the Secretary of State has by regulations specified a period of less than six months, that period;
 - (b) for an offence mentioned in Part 2 of Schedule 3A in relation to which the Department has by regulations specified a period of less than six months, that period;
 - (c) for any other offence, a period of six months.”
 - (4) After that subsection insert—

“(3A) When determining whether the period of disqualification in respect of an offence mentioned in Part 2 of Schedule 3 is not less than the minimum period, an extension period imposed under any of the following is to be disregarded—

 - (a) section 35A or 35C of the Road Traffic Offenders Act 1988;
 - (b) section 248D of the Criminal Procedure (Scotland) Act 1995;
 - (c) section 147A of the Powers of Criminal Courts (Sentencing) Act 2000.

“(3B) When determining whether the period of disqualification in respect of an offence mentioned in Part 2 of Schedule 3A is not less than the minimum

period, an extension period imposed under any of the following is to be disregarded—

- (a) Article 8A of the Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I. 6));
- (b) Article 40A of the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10));
- (c) Article 91A of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)).”

(5) After subsection (5) insert—

“(6) The Secretary of State may by regulations amend Schedule 3.

(7) The Department may by regulations amend Schedule 3A.”

3 (1) Section 55 (duty to give notice to foreign authorities of driving disqualification of a non-UK resident) is amended as follows.

(2) For the heading substitute “Duty to give notice to Republic of Ireland of UK driving disqualification”.

(3) In subsection (1), for “the State in which the offender is normally resident” substitute “the Republic of Ireland”.

(4) In subsection (2)(f), for “the convention on driving disqualifications” substitute “the specified agreement on driving disqualifications”.

(5) In subsection (9)—

- (a) in paragraph (b), for “the State mentioned in subsection (1)” substitute “the Republic of Ireland”, and
- (b) for “the convention on driving disqualifications” substitute “the specified agreement on driving disqualifications”.

4 For the italic heading before section 56 substitute “Road traffic offences in Republic of Ireland”.

5 (1) Section 56 (road traffic offences in Republic of Ireland: application of section 57) is amended as follows.

(2) For subsection (2) substitute—

“(2) The driving disqualification condition is met—

- (a) in relation to an offence mentioned in Part 1 of Schedule 3B, if the offender is disqualified in the Republic of Ireland as a result of the offence;
- (b) in relation to an offence mentioned in Part 2 of that Schedule, if the offender is disqualified in the Republic of Ireland for a period not less than the minimum period as a result of the offence.”

(3) In subsection (3)—

- (a) for “a State” substitute “the Republic of Ireland”,
- (b) for “in that State” substitute “there”, and
- (c) for “the law of that State” substitute “the law of the Republic of Ireland”.

(4) For subsection (4) substitute—

“(4) The minimum period is—

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- (a) for an offence in relation to which the Secretary of State has by regulations specified a period of less than six months, that period;
 - (b) for any other offence, a period of six months.”
 - (5) Omit subsection (5).
 - (6) In subsection (6), for “the part of the United Kingdom in which the offender is normally resident” substitute “the relevant part of the United Kingdom”.
 - (7) After that subsection insert—
 - “(6A) In subsection (6), “the relevant part of the United Kingdom” means—
 - (a) where the offender was normally resident in the United Kingdom when convicted, the part of the United Kingdom in which the offender was normally resident at that time;
 - (b) where the offender was not normally resident in the United Kingdom when convicted but held a Great Britain licence or a Northern Ireland licence, the part of the United Kingdom in which the offender was last normally resident before conviction.”
 - (8) Omit subsection (7).
 - (9) In subsection (8)—
 - (a) for “treating” substitute “about when”,
 - (b) after the first “United Kingdom” insert “are to be treated for the purposes of this section”, and
 - (c) for “a member state other than the United Kingdom” substitute “the Republic of Ireland”.
 - (10) After subsection (9) insert—
 - “(10) The Secretary of State may by regulations amend Schedule 3B.”
- 6
- (1) Section 57 (recognition in United Kingdom of foreign driving disqualification) is amended as follows.
 - (2) In the heading, for “foreign” substitute “Republic of Ireland”.
 - (3) In the following provisions, for “the foreign disqualification” substitute “the Republic of Ireland disqualification”—
 - (a) subsection (1)(a);
 - (b) subsection (2) (in both places);
 - (c) subsection (4)(b);
 - (d) subsection (5)(b);
 - (e) subsection (6);
 - (f) subsection (8) (in both places).
 - (4) In subsection (1)(a) and (b), for “one month” substitute “three months”.
 - (5) In subsection (2)(b), for “the State in which the offender was convicted” substitute “the Republic of Ireland”.
 - (6) In subsection (3)—
 - (a) for “a State” substitute “the Republic of Ireland”, and
 - (b) for “in that State” substitute “there”.

- 7 In section 58(1)(a) and (b) (notice under section 57), for “the foreign disqualification” substitute “the Republic of Ireland disqualification”.
- 8 (1) Section 63 (production of licence: Great Britain) is amended as follows.
- (2) In subsection (4), for “the competent authority of the relevant State” substitute “the competent authority of the Republic of Ireland or the Department”.
- (3) Omit subsection (5).
- 9 (1) Section 64 (production of licence: Northern Ireland) is amended as follows.
- (2) In subsection (4), for “the competent authority of the relevant State” substitute “the competent authority of the Republic of Ireland or the Secretary of State”.
- (3) Omit subsection (5).
- 10 In section 65(3) (production of licence: Community licence holders), for the words from “the same” to the end substitute “the Republic of Ireland”.
- 11 In section 68 (endorsement of licence: Great Britain), for subsection (1) substitute—
- “(1) This section applies where a person who—
- (a) is normally resident in Great Britain, or
- (b) is not normally resident in Great Britain but holds a Great Britain licence,
- is disqualified by virtue of section 57.”
- 12 In section 69 (endorsement of licence: Northern Ireland), for subsection (1) substitute—
- “(1) This section applies where a person who—
- (a) is normally resident in Northern Ireland, or
- (b) is not normally resident in Northern Ireland but holds a Northern Ireland licence,
- is disqualified by virtue of section 57.”
- 13 In section 70(1) (duty of appropriate Minister to inform competent authority)—
- (a) for “any State” substitute “the Republic of Ireland”, and
- (b) for “the convention on driving disqualifications” substitute “the specified agreement on driving disqualifications”.
- 14 (1) Section 72 (regulations: Great Britain) is amended as follows.
- (2) In subsection (2), at the end insert “, subject to subsection (2A)”.
- (3) After subsection (2) insert—
- “(2A) A statutory instrument containing regulations under section 54(6), 56(10) or 71A may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- 15 (1) Section 73 (regulations: Northern Ireland) is amended as follows.
- (2) In subsection (2), at the end insert “, subject to subsection (2A)”.
- (3) After subsection (2) insert—

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- “(2A) Regulations made under section 54(7) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.”
- 16 (1) Section 74(1) (interpretation) is amended as follows.
- (2) For the definition of “central authority” substitute—
““central authority” means an authority designated by the Republic of Ireland as a central authority for the purposes of the specified agreement on driving disqualifications;”.
- (3) For the definition of “competent authority” substitute—
““competent authority” means an authority which is a competent authority in relation to the Republic of Ireland for the purposes of the specified agreement on driving disqualifications;”.
- (4) Omit the definition of “the convention on driving disqualifications”.
- (5) In the definition of “disqualified”, after “and” insert “, except in section 71A,”.
- (6) Omit the definition of “foreign disqualification”.
- (7) At the end insert—
““Republic of Ireland disqualification” means the disqualification mentioned in section 56;
“Republic of Ireland licence” means a licence to drive a motor vehicle granted under the law of the Republic of Ireland, including a learner permit.”
- 17 In section 74(2) (interpretation of references to disqualification for life), for “foreign disqualification” substitute “Republic of Ireland disqualification”.
- 18 In section 74, at the end insert—
“(3) For the purposes of this Chapter, an individual is normally resident in, or in a part of, the United Kingdom, in Great Britain, in Northern Ireland or in the Republic of Ireland if his or her normal residence, as defined in Article 12 of Directive 2006/126/EC of the European Parliament and of the Council of 20th December 2006 on driving licences, is there.”
- 19 (1) Schedule 3 (offences for the purposes of section 54) is amended as follows.
- (2) In the heading, at the end insert “: Great Britain”.
- (3) In paragraph 1, for sub-paragraph (2) substitute—
“(2) Driver” has the same meaning as in the Road Traffic Act 1988.”
- (4) In paragraph 2, omit “or Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (S.I. 1997/276 (N.I. 2))”.
- (5) In paragraph 3—
(a) omit “or Articles of the Road Traffic (Northern Ireland) Order 1995”,
(b) in sub-paragraph (a), omit “or Article 9”,
(c) in sub-paragraph (b), omit “or Article 10”,
(d) in sub-paragraph (c), omit “or Article 12”,
(e) in sub-paragraph (d), omit “or Article 14”,

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- (f) in sub-paragraph (e), omit “or Article 15”,
 - (g) in sub-paragraph (f), omit “or Article 16”,
 - (h) in sub-paragraph (g), omit “or Article 17”, and
 - (i) in sub-paragraph (h), omit “or Article 18”.
- (6) In paragraph 5, omit “or Article 167(1) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1))”.
- (7) In paragraph 6, omit “or Article 175(2) of the Road Traffic (Northern Ireland) Order 1981”.
- (8) In paragraph 7(a), omit “or Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10))”.
- 20 After Schedule 3 insert—

“SCHEDULE
3A

Section 54

OFFENCES FOR THE PURPOSES OF SECTION 54: NORTHERN IRELAND

PART 1

OFFENCES WHERE ORDER OF DISQUALIFICATION
FOR A MINIMUM PERIOD UNNECESSARY

- 1 (1) Manslaughter by the driver of a motor vehicle.
- (2) “Driver” has the same meaning as in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)).
- 2 An offence under Article 168A(1)(c) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (driving while disqualified).
- 3 An offence under Article 175(2) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (failing to stop after accident and give particulars or report of accident).
- 4 An offence under any of the following Articles of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18))—
 - (a) Article 9 (causing death or grievous bodily injury by dangerous driving),
 - (b) Article 10 (dangerous driving),
 - (c) Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving),
 - (d) Article 12 (careless, and inconsiderate, driving),
 - (e) Article 12B (causing death or grievous bodily injury by driving: unlicensed, disqualified or uninsured drivers),
 - (f) Article 14 (causing death or grievous bodily injury by careless driving when under the influence of drink or drugs),
 - (g) Article 15 (driving, or being in charge, when under the influence of drink or drugs),
 - (h) Article 16 (driving, or being in charge, of a motor vehicle with alcohol concentration above prescribed limit),

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- (i) Article 17 (failing to provide a specimen of breath for a breath test), or
 - (j) Article 18 (failing to provide a specimen for analysis or laboratory test).
- 5 An offence under Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (S.I. 1997/276 (N.I. 2)) (exceeding speed limit).

PART 2

OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD NECESSARY

- 6 An offence which—
- (a) is mentioned in Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10)), but
 - (b) is not an offence mentioned in Part 1 of this Schedule.”
- 21 After Schedule 3A insert—

“SCHEDULE 3B

Section 56

OFFENCES FOR THE PURPOSES OF SECTION 56: REPUBLIC OF IRELAND

PART 1

OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD UNNECESSARY

- 1 An offence arising from—
- (a) reckless or dangerous driving, whether or not resulting in death, injury or serious risk,
 - (b) wilful failure to carry out the obligations placed on drivers after being involved in road accidents,
 - (c) driving a vehicle while under the influence of alcohol or other substances affecting or diminishing the mental and physical abilities of a driver,
 - (d) refusal to submit to alcohol and drug tests,
 - (e) driving a vehicle faster than the permitted speed, or
 - (f) driving a vehicle while disqualified.

PART 2

OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD NECESSARY

- 2 An offence arising from conduct which is a road traffic offence that is not mentioned in Part 1 of this Schedule.”

Coroners and Justice Act 2009 (c. 25)

- 22 In Schedule 21 to the Coroners and Justice Act 2009 (consequential amendments), omit paragraph 93 (uncommenced amendment of section 54 of the Crime (International Co-operation) Act 2003).

PART 2

TRANSITION FROM EU CONVENTION TO NEW AGREEMENT

Transitional period

- 23 In this Part of this Schedule, “the transitional period” means the period—
- (a) beginning with 1 December 2014, and
 - (b) ending with the day before the first day on which—
 - (i) section 31(2) to (5) are in force,
 - (ii) the Secretary of State has specified an agreement under section 71A of the Crime (International Co-operation) Act 2003 (“the 2003 Act”), and
 - (iii) that agreement has entered into force.

Disapplication of duties and powers to give notices during the transitional period

- 24 During the transitional period, the Secretary of State and the Department of the Environment in Northern Ireland—
- (a) are not required to give a notice under section 55 of the 2003 Act (duty to give notice to foreign authorities of driving disqualification of a non-UK resident),
 - (b) are not required or permitted to give a notice under section 57 of the 2003 Act (recognition in United Kingdom of foreign driving disqualification), and
 - (c) are not required to give reasons under section 70(3) of the 2003 Act (duty to give reasons for not giving a notice under section 57).
- 25 Paragraphs 23 and 24 are to be treated as having come into force on 1 December 2014.

Application of duties and powers to give notices after the transitional period

- 26 After the end of the transitional period, the Secretary of State and the Department of the Environment in Northern Ireland—
- (a) are required to give a notice under section 55 of the 2003 Act (duty to give notice to foreign authorities of driving disqualification of a non-UK resident),
 - (b) are required or permitted to give a notice under section 57 of the 2003 Act (recognition in United Kingdom of foreign driving disqualification), and
 - (c) are required to give reasons under section 70(3) of the 2003 Act (duty to give reasons for not giving a notice under section 57),
- only in a case in which the offence referred to in section 54(1) or 56(1) of the 2003 Act was committed after the end of the transitional period.

Saving for pre-1 December 2014 cases

- 27 The amendments made by section 31 and Part 1 of this Schedule do not have effect in relation to a case in which a notice was given to an offender under section 57 of the 2003 Act before 1 December 2014.