

CRIME (INTERNATIONAL CO-OPERATION) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Road Traffic

Chapter 1: Convention on Driving Disqualifications

Section 54: Application of section 55

120. This section prescribes when the duty in section 55 to notify a central authority of an EU Member State about a disqualification will apply. The duty covers a driving disqualification imposed in the UK on a resident of another Member State. Schedule 3 lists the road traffic offences which, in the circumstances specified, would require notification of disqualification. A minimum period of disqualification must apply in respect of the offences in Part 2 but not Part 1.
121. The requirement will only apply to a disqualification which is no longer subject to appeal. The section also provides for section 55 not to apply in circumstances prescribed in regulations. Where another Member State has declared that it will apply, in full or in part, the discretionary conditions to the recognition of disqualifications described in Article 6(2) of the Convention, regulations will state when notification is not required in respect of that State.

Section 55: Duty to give notice to foreign authorities of driving disqualification of a non-UK resident

122. This section places a duty on the appropriate Minister (the Secretary of State in Great Britain or the Department of the Environment in Northern Ireland) in the circumstances specified in the previous section to notify a driving disqualification to the authorities in the Member State where the offender is normally resident. The notice must include information required by the Convention to allow the central authority to locate the offender, together with details of the offence and the order made against him. The appropriate Minister is also required to provide evidence that an offender who did not take part in the proceedings was properly notified of them. This will usually have been by way of a summons and subject to the normal conditions of service. Under Article 6(1) (e) of the Convention, the State of residence must refuse to recognise a disqualification if it considers that the person concerned did not have an adequate opportunity to defend himself. If the period of disqualification is reduced or removed by a court subsequent to the appropriate Minister sending his notification, he must also inform the central authority.

Section 56: Application of section 57

123. This section describes when under section 57 a driving disqualification, imposed in another Member State on a person normally resident in the UK, will be enforced in the

UK. This will be the case where the offence which gives rise to the disqualification constitutes one of the categories of conduct specified in the Convention, or other conduct constituting an offence which results in a disqualification of at least the minimum period. The offender must have been duly notified of, and entitled to take part in, the proceedings and the disqualification must not be subject to any further appeal in the State of the offence. A disqualification will not be enforced if the relevant proceedings in the State of offence were brought later than the time provided for the commencement of summary proceedings for a corresponding offence in the United Kingdom. This accords with Article 6(1)(d) of the Convention which precludes enforcement of a disqualification where the period of limitation would have expired under the state of residence's legislation. The appropriate Minister may make regulations about the correspondence between UK offences and other States' offences.

Sections 57 and 58: Recognition in the UK of foreign driving disqualifications

124. These sections allow for a person in the circumstances set out in the previous section, and to whom the appropriate Minister sends notification, to be disqualified from driving in the UK. The appropriate Minister should be provided under the Convention by the State of offence with the information he requires to enforce the disqualification. The appropriate Minister has discretion as to whether to enforce a disqualification where the unexpired period is less than one month. Where the disqualification is effective until a condition is satisfied, the offender is disqualified until the condition is satisfied. The UK disqualification takes effect 21 days after notification to the offender. However, the appropriate Minister has power to substitute a longer period. The intention is that the period at the end of which the disqualification takes effect should be the same as the period for appealing under section 59.
125. The Convention requires any part of the disqualification already served in the State of the offence to be taken into account in recognising the disqualification in the offender's State of residence. Section 57 grants the appropriate Minister power to make regulations to prescribe how the unexpired period of disqualification is to be determined. Although the normal appeals process will have been exhausted before the disqualification is notified to the UK, if the State of the offence removes the disqualification at any time during the unexpired period, the disqualification will also cease to have effect in the UK at that time.

Sections 59 to 62: Appeal against Disqualification and Power of Appellate Courts to Suspend Disqualification

126. **Section 59** enables a person disqualified under section 57 to appeal on limited grounds to their local magistrates' court in England and Wales, the sheriff court in Scotland or a court of summary jurisdiction in Northern Ireland. The appeal is only concerned with the imposition of the disqualification under section 57 and has no bearing on the conviction and disqualification in the State of the offence. An appeal must be made within 21 days of the notice of disqualification being issued (although the appropriate Minister may by regulations substitute a longer period). Separate provision is made in sections 60 to 62 for the appellate courts in each part of the UK, where the court thinks fit, to suspend the disqualification and notify the appropriate Minister that it has done so. If the court allows the appeal it is also required to notify the appropriate Minister.

Sections 63 to 65: Production of Licence

127. **Sections 63** and **64** require a licence holder given notice of disqualification under section 57 to deliver his licence and counterpart to the appropriate Minister within 21 days of the notice being given. It is an offence not to comply with this requirement. However, there are circumstances set out in sections 63 and 64 where an offence will not be committed where the person is not in possession of his licence or has applied for a new licence. Where a Community licence is produced to the appropriate Minister by a person disqualified under section 57, the appropriate Minister is required to send the

details of the holder and the disqualification to the authority in the relevant State which issued the licence. The appropriate Minister will return the licence to the holder at the appropriate time specified in section 65(4) unless the driver would not be authorised to drive in Great Britain or Northern Ireland, in which case the licence will be returned to the issuing authority in the relevant State.

Sections 66 and 67: Effect of disqualification and Rule for determining end of period of disqualification

128. The licence is treated as revoked from the beginning of the period of UK disqualification, subject to any suspension which is granted. Similarly, any period when a disqualification has been suspended, or the driver not disqualified, will not count towards determining the end of the period of disqualification.

Sections 68 and 69: Endorsement of Licence

129. The particulars of a disqualification under section 57 must be endorsed on the counterpart of a licence. The endorsement remains effective for four years from conviction in all cases. A person may obtain a licence free from the endorsement at the end of this period. If a disqualification is removed under section 57(6), the appropriate Minister must endorse the counterpart of the licence.

Section 70: Duty of appropriate Minister to inform competent authority

130. Under this section, where the appropriate Minister has been notified of a disqualification under the Convention, in accordance with the Convention, he is required to inform the competent authority of the State where the offence took place of the details of the disqualification imposed in the UK or, if he has not recognised the disqualification, he must inform the State of his reasons.

Section 71: Notices

131. This specifies how a notice which is required to be sent under this Chapter to an individual, or a Community licence which is required to be returned to its holder, may be delivered to that person. The latest address known to the appropriate Minister will be the proper address for this purpose.