

## **Minister's appearance before the JOC for pre-legislative scrutiny of the Road Traffic Bill (Fixed Penalty Notice - Drink Driving) Bill 2017**

### **Background**

- Cabinet approval was given on 10 February 2017 for the drafting of legislation to provide that all those detected drink driving over the legal limit will receive a mandatory disqualification from driving.
- Department currently engaging with Office of the Parliamentary Counsel (OPC) on drafting. First draft of Bill received from OPC on 14 March and further to comments provided by the Department, a second draft has been received on the 31 March 2017.
- As part of the Government's political reform programme, pre-legislative scrutiny (PLS) was introduced to the Houses of the Oireachtas in 2011 and formalised in parliamentary procedure in November 2013. The purpose of PLS is to give the Oireachtas the opportunity to influence the policy-making process on the draft legislation before it.

### **Drink - Driving Legislation**

Legislation on drink driving was last overhauled and consolidated in the Road Traffic Act 2010. As part of the 2010 Act, the legal blood alcohol concentration was reduced.

Regrettably, it was decided at the same time that some drivers who exceeded the limit but were at the lower end of the scale could get penalty points as an alternative to a disqualification. This was new - drink driving offences previously carried a disqualification and were considered too serious to be addressed through penalty points.

The current Bill is a very focused one designed to deal with a very particular issue. It provides that all those detected drink driving receive an automatic disqualification from driving thereby removing the privilege of the penalty points option currently afforded to certain drivers under section 29 of the Road Traffic Act 2010.

The current regime under s.29 of the Act is summarised in Appendix 1.

### **Main provisions in the Bill:**

- section 29 of the Road Traffic Act 2010 be amended so that all those detected drink driving receive an automatic disqualification from driving.

- those detected driving between 50mg and 80mg receive a 3 month disqualification from driving instead of 3 penalty points.

It is not envisaged that any other matters will be dealt with in this Bill as the intention is that it will be brought through the Houses quickly with a view to its enactment as soon as possible.

### **Justification**

- Replacing the 3 penalty points with a 3 month disqualification is considered appropriate and proportionately in line with the other disqualification periods.
- It will result in ALL drink driving offences coming under section 29 receiving a disqualification of 3 - 6 months. Drivers can continue to choose to go to Court to contest their drink driving charge but the minimum periods for disqualification will be higher (see Table 2 appendix 1)
- It sends a clear message to the public of the consequences of being detected for drink driving are stark and drink driving = disqualification.
- The results of An Garda Síochána's 2016 Christmas campaign which took place over 6 weeks resulted in a 35% increase in arrests over the same period in 2015 for drink driving clearly illustrates that drink-driving remains a significant road safety issue in Ireland that needs to be addressed urgently. Ensuring that all those detected engaging in such dangerous behaviour receive a disqualification is considered an appropriate response at this time.
- In 2016, a total of 8,063 drivers were arrested for intoxicated driving. Of these, 617\* drivers who were detected driving with between 50-80mg of alcohol per 100ml of blood were eligible for a fixed penalty notice from An Garda Síochána. This represented an increase of approximately 50% over 2015.

**\*Source: AGS - As of 26 February 2017**

### **Public Consultation**

There is no obligation nor is it the norm to conduct a public consultation on legislation. However, the RSA commissioned independent research in January this year

A nationally representative survey of 1000 drivers was conducted by independent research company Behaviour and Attitudes on behalf of the RSA. The drivers surveyed were representative on the basis of gender, age, social demographics and rural/urban etc.

The summary findings The Research conducted by B&A found that:

- 91% of Irish adults support any driver caught over the drink driving limit being automatically disqualified from driving.
- Levels of support for automatic disqualification are very similar between motorists and non-motorists and are consistently high across all key demographic groups.
- 61% of those who support (or who are undecided on) the automatic disqualification indicate the length of the disqualification should be 'more than 12 months'.
- The support for a disqualification of 'more than 12 months' is largely comparable between motorists and non-motorists and is over 50% across all demographic groups.

### Driver Fatalities between 2008 - 2012

Over the five year period, 2008 - 2012 the following table indicates the number of people killed or seriously injured in collisions where drivers/motorcyclists (of all vehicles) had a recorded BAC level of between 21 and 80mg/100ml.

BAC (Blood Alcohol) level	Killed	%	Seriously Injured	%	
21-50	19	6.6	6	8.7	
51-80	16	5.6	2	2.9	
Total No. of Alcohol related fatalities for the period	286	100	69	100	
In each category there were collisions with multiple deaths.					

- At the lower blood alcohol concentration levels there were **35 people killed** in this 5 year period. Of these **19** were in the 21 - 50 category and **16** in the 51 - 80 category
- This does not include the further 3 people killed in a collision where a driver had a **urine BAL** of between 27 and 66mg/100ml over this 5 year period.
- There are also drivers/motorcyclists who had failed breath tests but the levels are not provided and so we can't say how many people were killed in these collisions with lower levels of alcohol.

- There was also a cohort of drivers/motorcyclists with no alcohol test result of any kind.
- This means 7 - 8 people, on average, were killed over this period at the lower alcohol levels and these numbers may therefore be at the more conservative end of the scale.

### Impairment at lower levels

The most recent *Global Status Report on Road Safety*, published by the World Health Organization in 2015, notes that

“The risk of impairment starts at very low levels of alcohol consumption and rises exponentially with alcohol intake. Drivers with a BAC of between 20mg and 50 mg have at least a three times greater risk of dying in a vehicle crash. **This risk increases to at least six times with a BAC between 50mg and 80mg**, and rises exponentially above 80mg

### Appendix 1

**Table 1: Current fixed penalty notice regime under s. 29 of the Road Traffic Act 2010 for drink driving offences at specified Blood Alcohol Concentration (BAC) limits**

	Normal driver	Learner, Novice & professional drivers	Disqualification Periods/Penalty Points	
			1st offence within 3 years	2nd or subsequent offence
BAC Limits		20+ to 80	3 Months (& €200)	NA
BAC limits	50+ to 80		3 Penalty Points (& €200 charge)	NA
BAC Limits	80+ to 100		6 Months (& €400 charge)	NA

The current regime under s. 65 of the Act - Court based system is summarised in Table 2 below.

**Table 2: Current consequential disqualification periods and penalties by the Courts under section 65 of the Road Traffic Act 2010 for drink driving offences at specified (BAC) limits**

	Normal driver	Learner, Novice & professional drivers	Minimum disqualification periods for 1 <sup>st</sup> offence within 3 years	Minimum disqualification periods for 2 <sup>nd</sup> or subsequent offence
BAC < 80mg	50+ to 80	20+ to 80	6 Months	1 year
	80+ to 100		1 year	2 years

BAC > 80mg.	100+ to 150	2 years	4 years
	150+	3 years	6 years
<b>Regime for court fines &amp; imprisonment: Maximum fine of €5000 and/or 6 months in prison.</b>			