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Judgment: approved by the Court for handing down | *Delivered:* **31/01/12**

*(subject to editorial corrections)**

IN ARMAGH MAGISTRATES' COURT
IN THE COUNTY COURT DIVISION OF ARMAGH

JOHN MONE

Appellant

-v-

THE DRIVER AND VEHICLE AGENCY

Respondent

DEPUTY DISTRICT JUDGE (MC) CONWAY

1. This is an appeal pursuant to section 59 of the Crime (International Co-operation) Act 2003 ("the 2003 Act") against the decision of the Driver and Vehicle Agency ("DVA") to disqualify the appellant from driving in the UK in mutual recognition of a driving disqualification imposed upon him by a court in Ireland. The appellant argues that the DVA erred in law in finding that 'no appeal is outstanding' in relation to the disqualification imposed by the court in Ireland.

2. At the hearing of this appeal the appellant was represented by Mr Michael Tierney BL and the respondent by Mr Philip McAteer BL. I am grateful to both counsel for their helpful written and oral submissions.

Background Facts:

3. The facts of the case can be stated shortly in the following chronology:

16 February 2011	The appellant was convicted at Carrickmacross District Court, Ireland, of the offence of being in charge of a car with intent to drive under the influence of alcohol and disqualified from driving for 3 years. The disqualification was to take effect from 3 March 2011 and expire on 2 March 2014.
2 March 2011	14 day time limit in which to lodge an appeal expired.

3 March 2011	The appellant's driving disqualification in Ireland came into effect.
16 June 2011	The Roads Safety Authority in Ireland notified the DVA of the appellant's driving disqualification in Ireland.
24 August 2011	The DVA sent a letter to the appellant advising that, pursuant to section 57 of the 2003 Act, he would "also be disqualified in each part of the United Kingdom until the end of the disqualification period in Ireland". The UK disqualification was to take effect 21 days from the date of the letter. (i.e. 14 September 2011) and expire 2 March 2011.
12 September 2011	The appellant's Irish solicitors wrote to the DVA advising that they had been instructed to lodge a Notice of Appeal against the conviction in the District Court in Ireland. (It appears, however, the solicitors failed to carry out their client's instructions and no appeal was lodged)
23 September 2011	The appellant lodged a Notice of Appeal against the DVA's decision to disqualify him in the UK.
4 November 2011	The appellant's new Irish solicitors lodged an application at the District Court in Ireland to extend time in which to lodge an appeal.
9 November 2011	The extension of time to lodge the appeal was granted
10 November 2011	The appellant's solicitors lodged a Notice of Appeal.
3 January 2012	Hearing before Armagh Magistrates' Court of the appeal against the DVA's decision to disqualify the appellant in the UK.

4. At the hearing of this matter on 3 January 2011 it was indicated to the Court that an appeal date in Ireland had still not been fixed. It was common case between the parties that the appellant's Irish disqualification was still active despite the pending appeal hearing. The appeal bundle contains an email from the appellant's Irish solicitors to his solicitors in Northern Ireland stating that under Irish law where a driving disqualification is imposed by a court it is stayed pending the appeal (this would tally with the fact that the appellant's

disqualification did not take effect until the expiration of the 21 day time limit in which to lodge an appeal). However, the email goes on to state that, because the appellant brought his appeal out of time, his driving disqualification has not been stayed. The respondent submitted during oral hearing that the appellant could, if he wished, apply to the Irish court to stay the disqualification pending the appeal. Nothing turns on this point. Suffice to say, at the date of hearing, 3 January 2012, the appellant's disqualification in Ireland was active and, on foot of that fact, so too was his disqualification in the UK.

The Law:

5. Part 3 (sections 54 to 75) of the Crime (International Co-operation) Act 2003 implements the Convention on Driving Disqualification of 17th June 1998 ("the Convention") which was drawn up on the basis of Article K.3 of the Treaty on European Union. The Convention introduces the mutual recognition of driving disqualifications. Under the Convention, drivers normally resident in one Member State of the EU who are disqualified from driving in another Member State will also be disqualified in their state of residence.

6. Sections 54 and 55 provide for the recognition of a driving disqualification imposed in the UK in other EU countries. Sections 56 and 57 of the 2003 Act provide for recognition in the UK of a driving disqualification imposed outside the UK. It should be noted that sections 56 and 57 came into force on 28 January 2010 but only in respect of disqualifications imposed in Ireland.

7. Where section 57 applies the Minister (on whose behalf the DVA acts) must serve a notice on the offender disqualifying him from holding or obtaining a driving licence in any part of the UK for the remainder of the disqualification imposed in the other EU State. Section 56 provides the circumstances within which section 57 applies, and states:

> "(1) Section 57 applies where--
>
> (a) an individual ("the offender") who is normally resident in the United Kingdom is convicted in another member State of an offence falling within subsection (5),
>
> (b) no appeal is outstanding in relation to the offence, *[my emphasis]*
>
> (c) the driving disqualification condition is met in relation to the offence, and
>
> (d) the offender was duly notified of the proceedings ("the relevant proceedings") in which the disqualification was imposed and was entitled to take part in them.

(2) The driving disqualification condition is met--

(a) in relation to an offence falling within subsection (5)(a), if, as a result of the offence, the offender is disqualified in the State in which the conviction is made,

(b) in relation to an offence falling within subsection (5)(b), if, as a result of the offence, the offender is disqualified in that State for a period not less than the minimum period.

(3) For the purposes of this section an offender is disqualified in a State if he is disqualified in that State for holding or obtaining a licence to drive a motor vehicle granted under the law of that State (however the disqualification is described under that law).

(4) The minimum period is--

(a) a period of six months, or

(b) where the State in which the conviction is made is a prescribed State, a shorter period equal to the period prescribed in relation to that State.

(5) An offence falls within this subsection if it is constituted by--

(a) conduct falling within any of paragraphs 1 to 5 of the Annex to the convention on driving disqualifications, or

(b) other conduct which constitutes a road traffic offence for the purposes of that convention.

(6) Section 57 does not apply if the relevant proceedings were brought later than the time at which summary proceedings for any corresponding offence under the law of the part of the United Kingdom in which the offender is normally resident could have been brought.

(7) An offence is a corresponding offence if--

(a) the conduct constituting the offence outside the United Kingdom took place in any part of the United Kingdom, and

(b) that conduct is, or corresponds to, conduct which would constitute an offence under the law of that part.

(8) The appropriate Minister may make regulations treating offences under the law of a part of the United Kingdom as corresponding

to offences under the law of a member State other than the United Kingdom.

(9) For the purposes of this section no appeal is outstanding in relation to an offence if--

(a) no appeal is brought against an offender's conviction of the offence, or any decision made as a result of his conviction, within the time allowed for making such appeals, or

(b) such an appeal is brought and the proceedings on appeal are finally concluded." *[my emphasis]*

8. Thus, there are four conditions which must be met before the UK authorities can recognise a foreign disqualification: residence, no appeal outstanding, disqualification and notification. Once all four are met, however, the UK authorities must impose a disqualification in the UK. In relation to the 'no appeal is outstanding' condition, section 56(9) goes on to define the two specific circumstances when this occurs: "no appeal is brought … within the time allowed for making such appeals", or "such an appeal is brought and proceedings on appeal are finally concluded".

9. A person in Northern Ireland who is disqualified in the UK by virtue of section 57 may appeal to the Magistrates' Court for the petty sessions district in which he resides (section 59(1) and (2)). If the Magistrates' Court is "satisfied that section 57 does not apply to the [appellant's] case, it must allow the appeal … Otherwise it must dismiss the appeal" (section 59(5) and (6)).

Submissions by the Parties

10. The appellant concedes that the residence, disqualification and notification conditions prescribed by section 56(1) are met; but that the 'no appeal is outstanding in relation to the offence' condition in paragraph (b) of section 56(1) has not been met and, therefore, section 57 does not apply. The appellant cites the Explanatory Memorandum to the 2003 Act which, in relation to the section 56(1) conditions, states, inter alia, "the disqualification must not be subject to any further appeal in the State of the offence". The appellant further refers to the definition provision in section 56(9) which provides at paragraph (a) that 'no appeal is outstanding' if, inter alia, "no appeal is brought … within the time allowed for making such appeals". The appellant contends that he has brought an appeal in Ireland 'within the time allowed' as he has been granted an extension of time within which to bring the appeal by a competent court.

11. The respondent submits that the use of the phrase "within the time allowed for making such appeals" in section 56(9)(a) is referring only to the statutory time limit of 21 days. It argues that the use of the words "such appeals" denotes that

the legislature meant appeals in general rather than the individual case in question. Therefore, where a specific appeal is lodged outside the statutory time limit but is granted an extension of time, it falls outside the definition as it was not been brought within the generic time limit. The respondent submits that any other interpretation of the phrase would render it otiose. The respondent further cites the preamble to the Convention on Driving Disqualifications and argues that it would be contrary to the intention of the Convention (which includes that offenders ought not escape the effects of a disqualification imposed by a foreign court) if the appellant's argument were to prevail. Moreover, there are safeguards in the legislation to protect an offender who lodges a late appeal: section 56(7) provides that where a disqualification imposed by the foreign court ceases to have effect or is suspended then the UK disqualification will automatically stop.

Discussion:

12. Had the legislation merely left the 'no appeal is outstanding' condition in section 56(1) without further comment, the outcome of this appeal would be relatively straightforward; indeed, the appeal may never have arisen in the first place (although it is noted that the DVA disqualified the defendant at a time prior to the appellant lodging his appeal in Ireland). Parliament, however, thought fit to impose a specific definition for this phrase and it is that definition, in section 56(9) which is at the heart of the present appeal. The issue, put simply, is whether the phrase "within the time allowed for making such appeals" in section 56(9)(a) excludes an appeal where a competent court has granted an extension of time.

13. Despite being a statute extending to the whole of the UK, it appears that this provision has never come under judicial scrutiny (at least not in a published judgment). It further appears that the phrase "within the time allowed for making such appeals" has never been used in any other statute within the United Kingdom at all (let alone being used in a similar context). This is, therefore, one of those occasions when the court is asked to interpret the statute from first principles.

(i) Principles of Statutory Interpretation:

14. If asked, most law students will tell you that there are three distinct and separate ways to interpret a statute – the 'literal rule', the 'golden rule' and the 'mischief rule' – and that a court must choose which of these rules to apply in the given context of the case. Bennion On Statutory Interpretation (5th Ed., Butterworths 2008), however, is of the view that this is a fallacy which can be traced back to a Canadian academic, J Willis, and which "Commentators are still echoing … and should be strongly discouraged from doing so", explaining (at page 545):

> "If (which is doubtful) there ever were, there certainly are not now, just three 'rules' of statutory interpretation… The so called literal rule dissolves into a presumption that the text is the primary indication of intention and that the enactment is to be given a literal meaning where this is not outweighed by other factors. The so-called golden rule dissolves into one of the criteria that may outweigh the literal meaning, namely the presumption that an 'absurd' result is not intended. The so-called mischief rule dissolves into the presumption that Parliament intended to provide a remedy for a particular mischief and that a purposive construction is desirable…"

Saying that it was also incorrect to put forward the notion of 'selecting' one of the guides to interpretation, Bennion explains (at page 545):

> "… What the court does (or should do) is take an overall view, weigh all the relevant interpretative factors, and arrive at a balanced conclusion taking all factors into account for what they are worth."

15. Whilst Bennion's interpretative rules and presumptions are both many and varied, the fundamental underlying principle asserted by him is one of "informed interpretation". By this Bennion means that the person who construes an enactment must infer that the legislator intended it to be given "a fully informed, rather than a purely literal" interpretation. Accordingly, he says (at page 585):

> "… the court does not decide whether or not any real doubt exists as to the meaning of an enactment (and if so how to resolve it) until the court has first discerned and considered ... the context of the enactment, including all such matters as may illuminate the text and make clear the meaning intended by the legislator in the factual situation of the instant case ... For this purpose Parliament intends the court to permit the citation of any publicly-available material which ... the court considers it proper to admit".

16. Bennion then goes on to issue the following stark warning to all would be interpreters of legislation (at page 586):

> "The informed interpretation rule is to be applied no matter how plain the statutory words may seem at first glance. Indeed the plainer they seem, the more the reader needs to be on guard. A first glance at an enactment is not a fully-informed glance. Without exception, statutory words require careful assessment of themselves and their context if they are to be construed correctly."

17. The most obvious place to look in relation to publicly available material on the intended meaning of a statute are the publications in Hansard of the Bill's passage through Parliament. In Pepper v Hart [1993] AC 593 the House of Lords relaxed the rule against references to Parliamentary material as an aid to statutory construction. This relaxation was, however, limited and subject to strict safeguards. Lord Browne Wilkinson stated (at page 634):

> "In my judgment, subject to the questions of the privileges of the House of Commons, reference to Parliamentary material should be permitted as an aid to the construction of legislation which is ambiguous or obscure or the literal meaning of which leads to an absurdity. Even in such cases references in court to Parliamentary material should only be permitted where such material clearly discloses the mischief in that or the legislative intention lying behind the ambiguous or obscure words. In the case the statements made in Parliament, as at present advised, I cannot foresee that any statement other than the statement of the Minister or other promoter of the Bill is likely to meet these criteria."

While Lord Bridge commented (at page 617):

> "It should, in my opinion, only be in the rare cases where the very issue of interpretation which the courts are called on to resolve has been addressed in Parliamentary debate and where the promoter of the legislation has made a clear statement directed to that very issue, that reference to Hansard should be permitted. Indeed, it is only in such cases that reference to Hansard is likely to be of any assistance to the courts. Provided the relaxation of the previous exclusionary rule is so limited, I find it difficult to suppose that the additional cost of litigation or any other grounds of objection can justify the court continuing to wear blinkers which in such case as this conceal a vital clue to the intended meaning of the enactment."

18. In In The Matter Of An Application By Peter Robinson For Judicial Review [2002] NICA 18, however, Carswell LCJ, whilst adopting the rule in Pepper v Hart, also endorsed the warning issued by some of the Law Lords in R v Secretary of State for the Environment, Transport and the Regions, ex parte Spath Holmes Ltd [2001] 2 AC 349 against the over-usage of Hansard. Carswell LCJ noted:

> "Lord Nicholls of Birkenhead, after supporting Lord Bingham's expressed hope that counsel would be sparing in their references to Hansard, stated at page 399:

"As Lord Cooke of Thorndon points out in his speech, this does not mean that the courts will shut out, and not even look at, parliamentary material which one party reasonably contends supports his interpretation of ambiguous legislation. Rather, the courts will consider the material to see whether counsel's contention is well founded. If the parliamentary statements relied upon are not clear, they are of little or no value and cannot qualify as an external aid in the particular case. They will fail to satisfy the third of Lord Browne-Wilkinson's conditions: see *Pepper v Hart* [1993] AC 593, 640.

If, however, the statements are clear, and were made by a minister or other promoter of the Bill, they qualify as an external aid. In such a case the statements are a factor the court will take into account in construing legislation which is ambiguous or obscure or productive of absurdity. They are then as much part of the background to the legislation as, say, Government white papers. They are part of the legislative background, *but they are no more than this*. This cannot be emphasised too strongly. Government statements, however they are made and however explicit they may be, cannot control the meaning of an Act of Parliament. As with other extraneous material, it is for the court, when determining what was the intention of Parliament in using the words in question, to decide how much importance, or weight, if any, should be attached to a Government statement. The weight will depend on all the circumstances. For instance, the statement might conflict with the principle of interpretation that penal legislation is to be construed strictly."'

19. There are, thus, three conditions which must be met before Parliamentary materials can be used: firstly, the legislation must be ambiguous, obscure or the literal interpretation leads to an absurdity; secondly, the material must disclose the mischief or legislative intent; and thirdly, the statement must be made by a Government minister or other promoter of the Bill. However, it must further be borne in mind that despite how unequivocal a Government Minister's statement may be, it is not the definitive answer as to the meaning of the legislation.

20. In general, therefore, the 'legal meaning' of a term or phrase in an enactment can correspond either to its 'literal meaning' or its 'strained meaning' depending on the statutory context (Bennion, page 466). When seeking to determine the 'legal meaning', a court must place itself in an informed position before attaching the appropriate weight to each of the interpretative factors applicable with the object of arriving at what the legislature intended the provision to mean.

(ii) *Section 56(9)(a) - "No appeal is brought … within the time allowed for making such appeals":*

21. The respondent asserts that 'such appeals' in section 56(9)(a) is referring only to the time limit for a generic appeal (for ease I will refer to this as the "statutory time limit"). This argument, however, focuses purely on the appeal procedures in Northern Ireland and Ireland; it fails to consider the fact that the legislation is referring to appeal procedures in multiple Member States of the EU. Even if one assumes, solely for the purpose of analysing the respondent's argument, all relevant Member States have an appeal procedure similar to that in Ireland and this jurisdiction (namely, a statutory time limit which can be extended at the discretion of a competent court), the legislature must be considered to have knowledge of the discretionary extension when drafting the relevant provision. During the hearing both Counsel continually referred to the appellant's appeal in Ireland as being brought "out of time". This is an incorrect nomenclature: where a competent court grants an extension of time within which to lodge a notice of appeal, that extension of time has retrospective effect and, therefore, the appeal is brought within the time (albeit an extended period of time). This retrospective effect of the extension of time is required to give the appellate court jurisdiction to hear the appeal: where an appeal is lodged outside the time limit for doing so, and no extension of time has been granted by a competent court, then the appellate court has no jurisdiction to hear the appeal. The present appellant's appeal in Ireland is, therefore, an appeal within time. Indeed, before lodging his appeal in Ireland the appellant first had to apply to the court for an extension of the statutory time limit. Thus, on proper analysis, the respondent's argument that the generic time limit in section 56(9)(a) is a reference to the statutory time limit only (and not any extended period of time) cannot hold true.

22. At this point in time, however, I remind myself of Bennion's warning that the court must not fall into the trap of foregoing an 'informed interpretation' of the provision simply because the 'plain meaning' is easy to come by. In that regard, I find myself looking to the wider provisions of the statute to see the context in which the relevant provision is set. An Act is to be read as a whole and any contradictions within it need to be resolved (Bennion, page 465). This holistic view of the statute shows that section 56(1)(b) is not the only place in the 2003 Act where the 'no appeal is outstanding' provision is contained. As mentioned previously, sections 54 and 55 provide the mechanism for driving disqualifications in the UK to be recognised in other member States. Section 55 states that, where the section applies, the appropriate Minister must give the central authority of the State in which the offender is normally resident a notice advising of the disqualification. More specifically, section 54 states, inter alia:

> "(1) Section 55 applies where—

(a) an individual ("the offender") who is normally resident in a member State other than the United Kingdom is convicted of an offence mentioned in Schedule 3,
(b) no appeal is outstanding in relation to the offence, [*my emphasis*] and
(c) the driving disqualification condition is met in relation to the offence.

…

(5) For the purposes of this section no appeal is outstanding in relation to an offence if—
(a) no appeal is brought against an offender's conviction of the offence, or any order made on his conviction, within the time allowed for making such appeals, [*my emphasis*] or
(b) such an appeal is brought and the proceedings on appeal are finally concluded."

23. As can be seen, the condition in section 54(1)(b) is identical to that in section 56(1)(b). Moreover, the definition of 'no appeal is outstanding' in section 54(5) is identical to that in section 56(9). It is presumed that a word or phrase is not to be taken as having different meanings within the same instrument unless this fact is made clear. Where, therefore, the context makes it clear that a term has a particular meaning in one place, it will be taken to have that meaning elsewhere (see Bennion at page 1160, and see further R v Bradley [2005] EWCA Crim 20 at [26]-[28]). What then happens if section 54(5)(a) is construed so that "within the time allowed for making such appeals" includes those appeals where an extension of time has been granted? The obligation on the appropriate Minister to notify a foreign State of a disqualification only arises where all three of the conditions in section 54(1) are met, namely, residency, no appeal outstanding and relevant driving disqualification. If the 'no appeal is outstanding' condition is only satisfied where "no appeal is brought … within the time allowed for making such appeals" then the Minister cannot issue the notification until the time allowed for making such appeals has expired. If the 'time allowed' is to be interpreted as including a competent court's discretion to extend time, then it is impossible for the 'no appeal is outstanding' condition ever to be met as the time limit is in effect limitless. This would mean that the Minister could never issue the notice to the relevant foreign State as the condition in section 54(1)(b) would still be outstanding. Thus, the plain interpretation of the provision, where the time limit includes an extension of time, would result in an absurd conclusion in the operation of section 54. A further rule of Bennion's is the presumption that an absurd result is not intended, which he describes (at page 969) as:

> "The court seeks to avoid a construction that produces an absurd result, since this is unlikely to have been intended by Parliament. Here the courts give a very wide meaning to the concept of 'absurdity',

using it to include virtually any result which is unworkable or impracticable, inconvenient, anomalous or illogical, futile or pointless, artificial, or productive of a disproportionate counter-mischief."

24. During the Official Report of Grand Committee on the Crime (International Co-Operation) Bill in the House of Lords (Hansard (HL) 29 January 2003: Column GC178-179) Lord Carlisle of Bucklow, with whom Lord Renton concurred, when considering the clause which was to become the section 54(5), stated:

> "Surely, any appeal is outstanding until the time limit has passed during which he can make an appeal, or he has already made an appeal. Equally, an appeal is outstanding from the time that notice has been given of an intention to appeal until those appeal proceedings have been finally concluded. How can "no appeal is outstanding" mean anything other than what is said in subsection (5)?
>
> Subsection (5) is a good example of a totally otiose and unnecessary subsection, which defines a matter that does not need defining and which is well known to all the courts in this country. I know that I shall be shot down in flames and told that it means many other things, but I cannot think—and I challenge any other member of the Bar immediately to think—what "no appeal is outstanding" can possibly mean, other than that no appeal has been made, that the time for making any appeal has been completed, or, if one has been made, that it has been concluded."

In response, Lord Bassam of Brighton said:

> "I am advised that subsection (5) is required because it makes clear—perhaps not to the satisfaction of the noble Lords who have spoken—that strict time limits apply and that the Minister need not wait to see whether special leave is granted in special circumstances. That is its purpose.
>
> The subsection may appear unnecessary and otiose to the noble Lords who spoke, but it is there for a specific purpose."

25. There can be no doubt that Lord Bassam's reference to "whether special leave is granted in special circumstances" means an extension of time by a competent court to lodge the appeal. Thus, the next question that must be considered is whether this statement is admissible before this court as an aid to interpreting the relevant provision. As stated previously, Pepper v Hart lays down three conditions for the admissibility of Hansard material: firstly, the legislation must be ambiguous, obscure or the literal interpretation leads to an absurdity; secondly, the material must disclose the mischief or legislative intent; and

thirdly, the statement must be made by a Government minister or other promoter of the Bill. In relation to the first of these conditions, I am satisfied that the literal translation of the relevant provision would lead to an absurdity in the operation of the 2003 Act. Secondly, the statement of Lord Bassam clearly sets out the mischief for the relevant phrase. Thirdly, the statement was made by the Government spokesperson during a debate on the relevant clause within the Bill. I am, therefore, satisfied that the statement of Lord Bassam is admissible as an aid the interpretation of both section 54(5)(a) and 56(9)(a). In saying that, I remind myself that a statement by a Government Minister is not the definitive answer as it merely shows the intention of the Government rather the intention of Parliament.

26. I now turn to the Explanatory Memorandum to the 2003 Act which was cited by the appellant. In relation to section 56 it states that "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" [my emphasis]. I do not consider this adds anything in relation to interpreting section 56. All this statement really does is to paraphrase the condition in section 56(1)(b) "no appeal is outstanding in relation to the offence". The Explanatory Memorandum omits to address the fact that the statement in section 56(1)(b) is given a specific definition within the 2003 Act. The fact that there is a specific definition of "no appeal is outstanding," is evidence that Parliament was of the opinion that the literal meaning of this phrase was not the meaning they wished to attach to the phrase. This is thus further evidence that the definition in section 56(9)(a) should be given a strained meaning. Otherwise, if section 56(9)(a) was given its literal meaning it would be otiose as section 56(1)(b) would not need any further definition.

27. I further note section 57(6). This section would cover those instances where the DVA disqualifies someone by virtue of section 57 and the offender subsequently is granted an extension of time in which to lodge the appeal in the other State. If the offender is permitted to drive in the other State pending his appeal, then the disqualification in the UK is lifted. Indeed, in the present case, if the appellant had been granted leave to drive by the Irish authorities pending his appeal in Ireland, his disqualification in the United Kingdom would have ceased.

28. Having considered all of the above, I am satisfied that the relevant phrase "no appeal is brought … within the time allowed for such appeals" excludes appeals brought by virtue of an extension of time granted by a competent court. Therefore, in its application to sections 54 and 55, the 'no appeal outstanding' is met as soon as the statutory time limit has expired. This gives the Minister a definitive time period after the expiration of which (if the other two conditions in section 54(1) are met) he is able to notify the relevant foreign authorities of the disqualification in the UK. Similarly, in its application to sections 56 and 57, the

'no appeal outstanding' condition is met once the fixed statutory time limit has expired. To construe otherwise would render the provision otiose.

(iii) *Section 56(9)(b) - "Such an appeal is brought and the proceedings on appeal are finally concluded":*

29. Section 56(9)(b) states that no appeal is outstanding where "such an appeal is brought and the proceedings on appeal are finally concluded". At the hearing of the case both counsel intimated to the Court that this provision merely brought finality to the situation where an appeal had been brought. At the hearing the respondent further argued that the use of the term "such an appeal" in paragraph (b) was a direct reference to an appeal being brought within the time limit referred to in paragraph (a).

30. The Parliamentary material, detailed previously in this judgment, was not referred to by either counsel at the hearing. In order to ensure fairness to both parties, before placing any reliance on this material I invited both parties to make further written submission on the material. In his further submissions, the appellant altered his stance in respect of section 56(9)(b) and contended the provision was in the alternative to section 56(9)(a). He cited as authority for the proposition the use of the word "or" between the two paragraphs in section 56(9), that there was no reference to a time limit within paragraph (b) and also the fact that during the Report of the Grand Committee Lord Carlisle expressly stated the two paragraphs to be in the alternative. I can deal with these points very briefly.

31. Firstly, in relation to Lord Carlisle's statement, I remind myself of the conditions laid down by the House of Lords in Pepper v Hart on the admissibility of Parliamentary materials. The third of these conditions is that the statement must be made by a Government Minister or promoter of the Bill. In the instant case Lord Carlisle was neither. I am, therefore, of the opinion that the statement made by Lord Carlisle is not admissible and cannot be used as evidence of Parliament's intent in relation to section 56(9)(b).

32. Secondly, in relation to the use of the word "or" between the paragraphs, I am of the opinion this word is necessary because the paragraphs are referring to two distinct situations: where no appeal is brought within the time limit; and where such an appeal is brought but has been concluded. Furthermore, the appellant's argument fails to take into consideration the use of the word "such" in paragraph (b). I am satisfied the use of "such" in paragraph (b) is directly referencing paragraph (a), namely the concept of an appeal being brought within the required time limit.

33. As stated above, the relevant provision to the situation of the appellant's case is section 57(6). If the appellant's disqualification for his extension of time had

been suspended pending his appeal, then the disqualification in the UK would automatically cease.

34. For these reasons, therefore, I reject the appellant's further contentions that his appeal falls within section 56(9)(b).

Conclusion:

35. Section 59(5) and (6) of the 2003 Act state, in relation to an appeal to a Magistrates' Court against the decision of the Minister to impose a disqualification, "if the appropriate court is satisfied that section 57 does not apply to the applicant's case, it must allow the appeal … Otherwise it must dismiss the appeal".

36. For the reasons given in this judgment, neither paragraphs (a) or (b) of section 56(9) include the circumstances where an appellant has lodged an appeal against his disqualification in the other Member State outside of the fixed time limit for doing so. In the present case, therefore, no appeal is outstanding within the definition given by section 56(9) and, thus, the condition in section 56(1)(b) is met. Given the concession by the appellant that the other conditions in section 56(1) are met, I am satisfied that section 57 applies in the present case. In accordance with section 59(6), therefore, the appeal is dismissed.

37. I would just add one more thing. It appears to me that this appellant is the perfect example of persons the Convention and the 2003 Act are aimed at combatting. It is very obvious from the facts of the case that the appellant initially had no concern that he had been disqualified from holding a driving licence in Ireland. It is obvious that his intention was to continue driving using his Northern Ireland driving licence. It was only upon getting notice from the DVA that his Northern Ireland licence was going to be taken off him did the appellant suddenly become concerned about the disqualification in Ireland. The appeal in Ireland was only lodged when he realised his plan to subvert his penalty had been foiled. Let this case be a warning: no longer can UK motorists travel to Ireland and commit motoring offences with virtual impunity – if they are disqualified in Ireland then their UK licence will be taken off them also.