



## POLICE, CRIME, SENTENCING AND COURTS BILL Lords Committee Stage Briefing on Part 5: Road traffic offences and penalties

### INTRODUCTION

#### The 'core' road traffic offences involving 'careless' and 'dangerous' driving

Part 5 of the [Police, Crime, Sentencing and Courts Bill](#) includes three proposed changes to the framework of road traffic offences and penalties:

- 1) It increases the maximum sentence for 'causing death by dangerous driving', from 14 years to a life sentence;
- 2) Similarly, it increases the maximum sentence for 'causing death by careless driving while under the influence of drink or drugs', from 14 years to a life sentence (these two offences have traditionally been seen as equivalent);
- 3) It introduces a new offence of 'causing serious injury by careless driving', with a maximum sentence of 2 years.

The Government promised a [full review of this framework](#) back in 2014, which is still awaited. By contrast, the above proposals resulted from a [much more limited consultation in 2017](#). Our organisations are cautiously supportive of the first of these proposals. However we fear that it will make little difference on its own – and that the other proposals could even prove counterproductive – unless other measures are taken to:

- Review the definitions of 'dangerous' and 'careless' driving respectively; and
- Formalise the role of driving bans as a sentencing option for those convicted of driving offences which have clearly caused 'danger' but who are not obviously dangerous people who need to be imprisoned in the interests of public protection.

Our primary concern is not the inadequacy of sentencing in a few high-profile but extreme cases, where drivers cause death through exceptionally 'dangerous' driving, or where alcohol or drugs are involved. We are far more concerned about the large numbers of other fatal and serious injury cases that fail to attract headlines, where the legal system:

- Dismisses driving which has caused obviously foreseeable danger (including fatal and very serious injuries) as merely 'careless' driving – this is contrary to the original intention of the Road Traffic Act 1991;
- Is over-reliant on custodial sentencing, while making far too little use of driving bans;
- Routinely allows convicted drivers to avoid driving bans by pleading that this would cause 'exceptional hardship', in a way that contradicts the meaning of the word 'exceptional'.
- Seriously limits the maximum sentences for 'failure to stop or report' (or 'hit and run') offences where the driver left the scene in circumstances where he or she knew, or reasonably ought to have known, that a victim had potentially suffered serious or fatal injuries. A [parliamentary petition](#) to address this has attracted over 104,000 signatures.
- Seriously limits the maximum sentences for offences involving 'causing serious injury' – compared with those available for 'causing death' by equally bad driving – and fails to include any offence of causing serious injury (rather than death) by either 'careless' or 'dangerous' driving while under the influence of drink or drugs. If anything, we fear that the combination of proposals 1) and 3) above could prove counterproductive. It is likely to create even greater pressures for driving which has caused obviously foreseeable danger (and which ought therefore to be classed as 'dangerous') to be dismissed as merely 'careless' driving, by prosecutors as well as by the courts.
- Seriously limits the sentencing powers for opening vehicle doors in a way that causes death or serious injury.

The need to clarify the distinction between ‘careless’ and ‘dangerous’ driving, and to strengthen the use of driving bans (rather than being over-reliant on custodial sentences) are closely inter-related. Driving is the one day-to-day activity in which broadly law-abiding citizens can easily kill a fellow human through simple inattention. In many (though not all) such cases, those who drive ‘dangerously’ are not ‘dangerous’ people who need to be locked up in the interest of public protection; it is much more important to ban them from driving. Yet it seems likely that the legal system’s over-reliance on prison sentences makes jurors understandably reluctant to convict for a ‘dangerous’ driving offence, for fear of imprisoning a fellow driver for an offence they could easily imagine committing themselves. Hence they may opt for ‘careless’ convictions instead, even when this is legally incorrect.

Cycling UK’s report [‘Failure to see what is there to be seen’](#) has highlighted the huge inconsistencies in the use of ‘careless’ and ‘dangerous’ prosecutions and convictions. Clearly, if prosecutors fear that it may be difficult to persuade a jury to convict for dangerous driving, they may well simply opt for a ‘careless’ prosecution instead, or accept a ‘plea bargain’ where the accused pleads guilty to a ‘careless’ charge in return for not facing a ‘dangerous’ prosecution. Yet such undercharging or downgrading often causes serious grief to families who have already suffered bereavement or life-changing injuries.

### **Overview of our proposals**

We have prioritised three amendments which we believe are both politically and legally straightforward to include in the Bill straight away:

- *Serious ‘hit and run’ offences*: introducing a new offence of ‘failure to stop or report collisions’ in cases where “the person knew, or reasonably ought to have known, that the collision had caused personal injury that was likely to be serious or fatal”, with a maximum sentence of 14 years.
- *Closing the ‘exceptional hardship’ loophole*: strengthening the definition of ‘exceptional hardship’ so that convicted drivers are only exempted from the normal rules on driving bans in truly ‘exceptional’ cases.
- *Review of road traffic offences and penalties*: creating a duty on the Secretary of State to carry out a comprehensive review within 1 year of the Bill’s enactment.

We have also drafted amendments reflecting some of the key issues that need to be included in this review, namely to:

- Clarify the distinction between ‘careless’ and ‘dangerous’ driving. We propose that driving should be ‘careless or inconsiderate’ if it involves a breach of the Highway Code that causes inconvenience, intimidation or danger to another road user. It should be ‘dangerous’ where such a breach would lead to a driver being failed automatically if they drove in that way during a driving test.
- Ensure that the maximum custodial sentences for ‘causing serious injury’ do not fall vastly behind those for ‘causing death’ by equally bad driving, while strengthening the role of driving bans for offenders whose driving has clearly caused ‘danger’ but who are not obviously ‘dangerous’ people who need to be imprisoned to ensure public protection.
- Strengthen the penalties for those who continue driving while banned.
- Align the offences and penalties for causing death and causing serious injury while under the influence of drink or drugs more closely with those for causing death and causing serious injury by driving while disqualified, along with a new offence for causing serious injury while under the influence, with a maximum sentence of 5 years.
- Increase the maximum sentence for opening the doors of vehicles in a manner that results in death or serious injury, to 2 years.

Proposed changes re maximum custodial and minimum disqualification with driving offences

	Maximum custodial sentences			Minimum driving disqualification		
	Current	Proposed in Bill	Our proposal	Current	Proposed in Bill	Our proposal
Causing death by dangerous driving (RTA <a href="#">s1</a> )	14 yr	<b>Lifetime</b>	(Lifetime)	2 yr	-	<b>5 yr</b>
Causing serious injury by dangerous driving (RTA <a href="#">s1A</a> )	5 yr	-	<b>14 yr</b>	2 yr	-	<b>5 yr</b>
Dangerous driving (RTA <a href="#">s2</a> )	2 yr	-	<b>5 yr</b>	1 yr	-	<b>2 yr</b>
Causing death by careless / inconsiderate driving (RTA <a href="#">s2B</a> )	5 yr	-	<b>2 yr</b>	1 yr	-	<b>5 yr</b>
<b>Causing serious injury by careless / inconsiderate driving (PCSB Clause 66)</b>	n/a	<b>2 yr</b>	<b>6 mo</b>	n/a	<b>1 yr</b>	(1 yr)
Careless / inconsiderate driving (RTA <a href="#">s3</a> )	(Unlimited fine)	-	-	Discretionary	-	-
Causing death by careless driving whilst under the influence (RTA <a href="#">s3A</a> )	14 yr	<b>Lifetime</b>	<b>See next 2 lines</b>	2 yr	-	<b>See next 2 lines</b>
<b>Causing death by driving whilst under the influence</b>	n/a	n/a	<b>14 yr</b>	n/a	n/a	<b>5 yr</b>
<b>Causing serious injury by driving whilst under the influence</b>	n/a	n/a	<b>5 yr</b>	n/a	n/a	<b>5 yr</b>
Drink/drug driving (RTA <a href="#">s4</a> or <a href="#">s5</a> )	6 mo	-	-	1 yr	-	-
Causing death by driving while disqualified (RTA <a href="#">s3ZC</a> )	10 yr	-	-	2 yr	-	<b>5 yr</b>
Causing serious injury by driving while disqualified (RTA <a href="#">s3ZD</a> )	4 yr	-	-	2 yr	-	<b>5 yr</b>
Driving while disqualified (RTA <a href="#">s103(1)(b)</a> )	6 mo	-	<b>3 yr</b>	Discretionary	-	<b>3 yr</b>
<b>Failure to stop or report following fatal or serious collision</b>	n/a	n/a	<b>14 yr</b>	n/a	n/a	<b>5 yr</b>
Failure to stop or report (RTA <a href="#">s170</a> )	6 mo	-	-	Discretionary	-	-
<b>Causing death or serious injury by opening vehicle door</b>	n/a	n/a	<b>2 yr</b>	n/a	n/a	<b>1 yr</b>

\*Where mandatory driving ban not given, minimum penalty points to be increased from 3 to 6

The Government's proposals in the Bill shown in **bold**. Our proposals shown in **red**.

## OUR AMENDMENTS IN DETAIL

In this section:

- “RTA” means the Road Traffic Act 1988. This includes definitions of the ‘core’ road traffic offences, including ‘dangerous driving’, ‘careless or inconsiderate driving’, the corresponding offences involving ‘causing death’ or ‘causing serious injury’, and offences involving driving (or causing death or serious injury by driving while unlicensed or uninsured, while disqualified, or while under the influence of drink or drugs);
- “RTOA” means the Road Traffic Offenders Act 1988. This includes rules setting the maximum penalties and, where relevant, disqualification and endorsement requirements for road traffic offences, including those under RTA.

### **Failure to stop and report collisions involving actual or potential serious or fatal injury**

[Research](#) found that there were over 28,000 ‘hit-and-run’ collisions in 2017, a figure which had increased by 43% since 2013. The current maximum sentence for a ‘hit-and-run’ collision is 6 months. This may suffice for cases where a driver leaves the scene having scratched someone’s parked car, but not when they have left someone for dead in the road. Concern over weak sentences in cases such as those of [Sean Morley](#), [Scott Walker](#), [Alfie O’Keefe Hedges](#), [Oscar Seaman](#), [Shakeel Sheikh](#), [Ryan Saltern](#), [Matthew Smyth](#) and Matthew’s [close friend Paul Wood](#) (both killed in separate hit-and-run collisions while riding their motorbikes) have prompted [three parliamentary petitions](#) calling for reform. The first two have both attracted over 100,000 signatures, while the third (with over 22,000 signatures) is still live.

This amendment creates a new offence of failure to stop and report collisions where the driver or rider of a mechanically propelled vehicle knew that the collision had caused serious or fatal injury, or where he ought reasonably to have realised that it might have done so. It has a maximum sentence of 14 years custody.

It also creates a general duty for such drivers and riders to report collisions while at the collision scene (bearing in mind that mobile phones are now widely available - they were almost non-existent when the legislation was drafted). However if this is not possible, the driver or rider may subsequently report the collision (and, where applicable, produce an insurance certificate) at a police station or to a constable, as soon as is reasonably practical and, in any case, within two hours of the collision. This time-limit has been shortened from 24 hours, to prevent drivers from delaying reporting, so as to avoid failing a drink or drugs test (e.g. see the cases of [Connor Marsden](#), [Connor Emms](#), [Gary Smith](#) and [Gemma Clout](#)).

It also replaces the word “accident” with “collision”. Our organisations would wish to replace the word “accident” in road traffic law more generally, but recognise that consideration will need to be given to an appropriate way of doing so in other legal contexts, as part of the wider review of road traffic offences and penalties advocated earlier in this briefing. However, the kinds of ‘accidents’ described in [RTA subsection 170\(1\)](#) can all be correctly described as ‘collisions’, hence we propose making this amendment straight away.

\* \* \*

Amendment 166: Insert the following new Clause --

**“Failure to stop and report collisions involving actual or potential serious or fatal injury**

- (1) [Section 170](#) of the Road Traffic Act 1988 is amended in accordance with subsections (2) to (7).
- (2) For “accident”, in each place it occurs, substitute “collision”.
- (3) In subsection (2), after “stop” insert “, report the collision to the police”.
- (4) In subsection (3), for “, he must report the accident” substitute “while at the scene of the collision, he must report the collision to a constable or at a police station as soon as is reasonably practical and, in any case, within two hours of the occurrence of the collision.”
- (5) After subsection (4), insert --
 

“(4A) A person who fails to comply with subsections (2) or (3) when he knew that the collision had caused serious or fatal personal injury, or where he ought reasonably to have realised that it might have done so, is guilty of an offence.”
- (6) In subsection (5), after “evidence” insert “at a police station as soon as is reasonably practical and, in any case, within twenty-four hours of the occurrence of the collision.”
- (7) Omit subsection (6).
- (8) In [Part 1 of Schedule 2 of the Road Traffic Offenders Act 1988](#) (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to an offence under RTA subsection 170(4) insert –

RTA section 170(4A)	Failure to stop, report and give particulars after collision involving actual or potential serious or fatal injury.	On indictment	14 years	Obligatory	Obligatory	6-11
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- (9) After [subsection 34\(3\)\(d\) of the Road Traffic Offenders Act 1988](#), insert --
 

“(e) section 4A (failure to stop, report and give particulars after collision involving actual or potential serious or fatal injury).”

### Definition of ‘exceptional hardship’

When an offender faces a driving ban after accumulating 12 penalty points on their licence, the court can exempt them from the ban, or shorten it, if it accepts a plea from the offender that this would cause them ‘exceptional hardship’. Cycling UK’s [‘Exceptional hardship?’ report](#) demonstrates that such exemptions are clearly not ‘exceptional’. One driver was [recently exempted](#) from a ban as this would allegedly prevent him from walking his dog, as the nearest park was a mile from his home.

The consequences of this leniency can be lethal. When [Christopher Gard](#) hit and killed cyclist Lee Martin in 2015, it was the 9<sup>th</sup> time since 2009 that he had been caught using a mobile phone while driving. Twice previously he had been sent on a driver retraining course, and he had been convicted and fined on 6 other occasions. Yet magistrates had repeatedly accepted his plea that a driving ban would cause him 'exceptional hardship'.

Similarly, motorcyclist Louis McGovern was killed when [Kurt Sammon](#) crashed into him, having jumped a red light while distracted by his hands-free mobile phone. Sammon had a record of motoring offences dating back to 2002 including driving while disqualified. He had previously left a 13 year old boy to die in a hit and run collision. Yet he too had twice avoided driving bans following subsequent convictions for mobile phone offences, by pleading 'exceptional hardship'.

This amendment provides a definition of 'exceptional hardship'. It requires that a court should only regard hardship as 'exceptional' if and only if it is significantly greater than the hardship that would arise if the same disqualification were imposed on a large majority of other drivers.

It also identifies examples of circumstances that the court may take into account in deciding whether the hardship arising from a disqualification would be truly exceptional, including:

- (a) any circumstances relating to the offender's economic circumstances or location of residence that would make it exceptionally hard for him to access key services such as grocery shops and postal, banking and healthcare facilities; or
- (b) any hardship that would be incurred by offender's family or others who are disabled and who depend on the offender to provide care for them.

\* \* \*

Amendment 158: Insert the following new Clause --

**"Definition of "exceptional hardship"**

In the Road Traffic Offenders Act 1988, after [subsection 35\(4\)](#), insert --

"(4A) In subsection (4)(b) above, the hardship that would be caused by a defender's disqualification should be regarded as exceptional if and only if it is significantly greater than the hardship that would arise for a large majority of other drivers if it were imposed on them.

(4B) In assessing whether the hardship arising from the offender's disqualification would be exceptional, a court may take account of --

- (a) any circumstances relating to the offender's economic circumstances or location of residence that would make it exceptionally hard for him to access key services such as grocery shops and postal, banking and healthcare facilities,
- (b) any hardship that would be incurred by offender's family or others who are disabled and who depend on the offender to provide care for them, and
- (c) any other circumstance which it believes would make the hardship genuinely exceptional."



## **Review of road traffic offences and penalties**

The Government promised a full review of road traffic offences and penalties in 2014, but has never conducted this. The measures proposed in Part 5 of the Bill arose from a much more limited consultation carried out in 2017. Though well-intentioned, these proposals will do little to address the huge inconsistencies and weaknesses in road traffic prosecutions, convictions and sentencing, which often leave the victims deeply aggrieved and where justice seems to have been very poorly served.

This amendment creates a duty for the Secretary of State to conduct a review of road traffic offences and penalties within two years of the Bill being enacted. It also sets out issues that the Secretary of State should consider in conducting this review.

The remaining amendments in this briefing then outline some of the legislative provisions that we believe should be considered as part of this review.

Amendment 165: Insert the following new Clause --

### **“Review of road traffic offences and penalties**

- (1) The Secretary of State must carry out a review of road traffic offences and penalties within two years of the day on which this Act is passed.
- (2) In conducting the review the Secretary of State must consider --
  - (a) The need to clarify the definitions of road traffic offences and hence the consistency of how they are applied by prosecutors and the courts;
  - (b) The need to ensure greater alignment between the penalties for offences which involve causing death and those for offences of equivalent seriousness which involve causing serious injury;
  - (c) Sentencing which ensures public protection, particularly the role of driving bans, mandatory driver retraining courses, vehicle confiscation, restorative justice and other non-custodial sentences in appropriate cases;
  - (d) Strengthening the penalties for offences committed by offenders who have previously been disqualified from driving;
  - (e) The role of alcohol interlocks and other technologies to prevent reoffending.”

## **Definitions of dangerous and careless or inconsiderate driving, or by driving when under the influence of drink or drugs**

This amendment creates new definitions for the offences of ‘dangerous’ and ‘careless, or inconsiderate’ driving (RTA [s2](#) and [s3](#), as currently defined in RTA [s2A](#) and [s3ZA](#) respectively). Cycling UK’s report ‘[Failure to see what is there to be seen](#)’ documents huge inconsistencies in how these terms are interpreted by both prosecutors and the courts. There is also evidence of variations over time, and in different parts of the country.

Under this amendment, driving would be ‘careless, or inconsiderate’ if it involves a breach of the Highway Code that causes inconvenience, intimidation or danger to one or more other road users. Such a breach would however amount to ‘dangerous’ driving if it is sufficiently serious that it would lead to automatic failure if it were committed during a driving test.

These amended definitions would also apply for offences involving ‘causing death’ and ‘causing serious injury’ by ‘dangerous’ or by ‘careless, or inconsiderate’ driving respectively (RTA sections [1](#), [1A](#) and [2B](#)).

It also:

- deletes the word ‘careless’ from the existing offence of ‘causing death by careless driving while under influence of drink or drugs’ ([RTA s3A](#));
- creates a new offence of ‘causing serious injury by driving when under influence of drink or drugs’;
- Sets the maximum penalty for the ‘causing death’ offence at 14 years, and for the ‘causing serious injury’ offence at 5 years.

The definitions of the resulting offences are thus in line with the offences of causing death and causing serious injury by driving while disqualified (RTA sections [3ZC](#) and [3ZD](#) respectively - these have maximum sentences of 10 years and 4 years respectively).

\* \* \*

Amendment 152: Insert the following new Clause --

Leave out Clause 65 and insert the following new Clause—

**“Causing death or serious injury by dangerous or careless driving, or by driving when under the influence of drink or drugs**

- (1) The Road Traffic Act 1988 is amended in accordance with subsections (2) to (7).
- (2) In section 2A (meaning of dangerous driving) —
  - (a) for subsections (1)(a) and (b) substitute “he commits a breach of one or more rules of the Highway Code in a way that causes inconvenience, intimidation or danger to one or more other road users that is sufficiently serious that it would result in a person being disqualified automatically if the person drove in that way during a driving test”;
  - (b) omit subsection (3).
- (3) In section 3ZA (meaning of careless, or inconsiderate, driving) —
  - (a) in subsection (2), for “the way he drives falls below what would be expected of a competent and careful driver”, substitute “he commits a breach of one or more rules of the Highway Code that causes inconvenience or intimidation to one or more other road users but which is not so serious as to amount to dangerous driving as defined in subsection 2A(1)”;
  - (b) omit subsection (3).
- (4) Section 3A (causing death by careless driving when under influence of drink or drugs) is amended as follows:
  - (a) In the heading, for “by careless” substitute “or serious injury by”;
  - (b) In subsection (1), omit “without due care and attention, or without reasonable consideration for other persons using the road or place”;
  - (c) After subsection (1) insert —

“(1A) If a person causes serious injury to another person by driving a mechanically propelled vehicle on a road or other public place, and the conditions in subsections (1)(a) to (1)(d) are also met, he is guilty of an offence.”
- (5) Part 1 of Schedule 2 of the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts) is amended in



accordance with subsections (9) and (10).

(6) In the entry relating to section 1 of the Road Traffic Act 1988 (causing death by dangerous driving), in column (4) (punishment), for “14 years” substitute “Imprisonment for life”.

(7) For the entry relating to section 3A of the Road Traffic Act 1988, substitute –

“RTA section 3A(1)	Causing death by driving while under the influence of drink or drugs	On indictment	14 years or a fine or both	Obligatory	Obligatory	6-11
RTA section 3A(1A)	Causing serious injury by driving while under the influence of drink or drugs	Summarily	(a) on conviction in England and Wales: 12 months, or a fine or both. On conviction in Scotland: 12 months or the statutory maximum or both (b) 5 years or a fine or both	Obligatory	Obligatory	6-11”

(8) A provision of this section does not apply in relation to offences committed before the provision comes into force.”

### Sentencing for offences involving dangerous, careless or inconsiderate driving

This amendment:

- Increases the maximum penalty for the existing offences of ‘causing serious injury by dangerous driving’ (from 5 years to 14 years) and ‘dangerous driving’ (from 2 years to 5 years on indictment).
- Reduces the maximum penalty for the existing offence of causing death by careless driving (from 5 years to 2 years) and for the proposed new offence of causing serious injury by careless driving (from 2 years to 6 months). If driving is merely ‘careless’ as per our definition (see 1<sup>st</sup> amendment above), it should not normally merit a custodial sentence when it happens to result in death or serious injury. Such cases should in any case be very rare and will almost inevitably have involved either significant fault on the part of someone other than the driver, or an ‘act of God’. Without either of these elements, it is hard to see how driving could cause death or serious injury if it would not result in automatic failure if carried out in a driving test.
- Increases the mandatory minimum disqualification period from 3 years to 10 years for various ‘impairment’ offences (as listed in [RTOA ss34\(3\)](#)) which involve driving or attempting to drive while under the influence, or failure to provide or authorise specimens, where the offender had previously committed any of these ‘impairment’ offences during the preceding 10 years.
- Increases the mandatory minimum disqualification period from 2 years to 5 years for the serious driving offences listed in RTOA ss34(4)(a), i.e. manslaughter or culpable homicide in Scotland; causing death or causing serious injury by dangerous driving; or causing death or causing serious injury by driving while disqualified; or causing death

by careless driving while under the influence [*n.b. if Amendment 152 is passed, this Amendment will instead apply to our proposed offences of causing death or causing serious injury by driving while under the influence*].

- Increasing the minimum number of penalty points, from 3 points to 6 points, for causing serious injury by dangerous driving, dangerous driving and causing death by careless driving while under the influence [*n.b. as above, if Amendment 152 is passed, this too will instead apply to our proposed offences of causing death or causing serious injury by driving while under the influence*].

\* \* \*

Amendment 167: Insert the following new Clause --

**“Sentencing for offences involving dangerous, careless or inconsiderate driving**

(1) The [Road Traffic Offenders Act 1988](#) is amended as follows.

(2) In [section 34](#) (disqualification for certain offences) --

(a) At the end of subsection (3), for “three years” substitute “ten years”;

(b) In subsection (4) -

- (i) in the opening words, omit “two years”;
- (ii) in paragraph (a), at the beginning insert “five years”;
- (iii) in paragraph (b), at the beginning insert “two years”;
- (iv) after paragraph (b) insert -

“(c) two years in relation to a person convicted of an offence under section 2 of the Road Traffic Act 1988 (dangerous driving).”

(3) In [part 1 of Schedule 2](#) (prosecution and punishment of offences: offences under the Traffic Acts), for the entries relating to offences under RTA sections 1A, 2 and 2B, substitute the following [*n.b. red text highlights changes*]:

RTA section 1A	Causing serious injury by dangerous driving	On indictment	14 years	Obligatory	Obligatory	6-11
RTA section 2	Dangerous driving	(a) Summarily	(a) 12 months or the statutory maximum or both	(i) Obligatory	Obligatory	(i) 3-11
		(b) On indictment	(b) 5 years or a fine or both	(ii) Obligatory		(ii) 6-11
RTA section 2B	Causing death by careless, or inconsiderate, driving	(a) Summarily	(a) 12 months (in England and Wales) or 6 months (in Scotland) or the statutory	Obligatory	Obligatory	(i) 3-11

		(b) On indictment	maximum or both (b) 2 years or a fine or both			(ii) 6-11
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### Penalties for driving while disqualified

This amendment:

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Amendment 168: Insert the following new Clause --

#### “Penalties for driving while disqualified

(1) The [Road Traffic Offenders Act 1988](#) is amended as follows.

(2) In [section 34](#) (disqualification for certain offences) --

(a) After subsection (3)(d), insert --

“(e) section 103(1)(b)”

(b) After subsection (3), insert --

“(3A) Where a person is convicted under section 103(1), subsection (3) also applies if he has within 10 years immediately preceding the commission of the offence been convicted of any of the offences mentioned in subsection (4) below.”

(3) In [part 1 of Schedule 2](#) (prosecution and punishment of offences: offences under the Traffic Acts), for the entry relating to offences under RTA section 103(1)(b), substitute the following [*n.b. red text highlights changes*]:

RTA section 103(1)(b)	Driving while disqualified	On indictment	3 years	Obligatory	Obligatory	6-11
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### Opening of vehicle doors

This amendment creates a new offence of opening the door of a vehicle in a manner that results in death or serious injury. It carries a maximum sentence of 6 months in the magistrates’ court or 2 years in the crown court.

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Amendment 169: Insert the following new Clause --

#### “Opening of vehicle doors

(1) In the Road Traffic Act 1988, after [section 41D](#) insert --

“41E Breach of requirement as to opening of doors

A person who contravenes [regulation 105 of the Road Vehicles \(Construction and Use\) Regulations 1986](#) (opening of doors) in a manner that results in death or serious injury is guilty of an offence.”

- (2) In [Part 1 of Schedule 2 of the Road Traffic Offenders Act 1988](#) (prosecution and punishment of offences: offences under the Traffic Acts), after the entry for an offence under the Road Traffic Act 1988 section 41D, insert --

“RTA section 41E	Breach of requirement as to opening of doors in a manner that results in death or serious injury	(a) Summarily (b) On indictment	(a) 6 months or a fine or both (b) 2 years	Obligatory	Obligatory	3-11””
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## ENDNOTE

In our introduction, we noted that the Government promised in 2014 to carry out a full review of road traffic offences and sentencing, as our organisations had long called for. That call has since been echoed:

- By the Commons Transport Committee, in the report of its 2015-16 [inquiry on Road Traffic Law Enforcement](#);
- By the All Party Parliamentary Group on Cycling and Walking (formerly the All Party Parliamentary Cycling Group), in the report of its 2017 [inquiry on Cycling and the Justice System](#); and
- In a [2018 parliamentary debate on Road Justice and the Legal Framework](#), which revealed a cross-party consensus on the need for wide-ranging reforms.

A number of other road safety organisations have voiced support for our call for a wider review of road traffic offences and penalties - see the introduction to Cycling UK’s report [‘Five Flaws: Failing Laws’](#). We call for the completion of this review within 2 years of the Bill’s enactment. This would allow relevant interest groups to consider each other’s proposals, with the aim of forging a consensus on how best to overhaul road traffic law, avoiding the pitfalls that have beset past attempts at reform. Had this been done as promised in 2014, Parliament could have been enacting legislation by now.

Meanwhile we also call for immediate action on our amendments relating to dangerous ‘hit and run’ offences and the ‘exceptional hardship’ loophole. These amendments are legally self-contained – and politically, they are surely uncontroversial.

October 2021