Mr Speaker Sir,

The decision to introduce the penalty point system was prompted by the need to induce drivers to behave more responsibly and to promote safety.

At the very outset, I would like to congratulate the Vice Prime Minister Hon. Anil Bachoo, Minister of Public Infrastructure, National Development Unit, Land Transport and Shipping for bringing this innovative piece of legislation to this House.

The vision of the Government is to provide a safe road environment to the Mauritian population.

It is a priority for this Government to reduce the number of road accidents in Mauritius. We are determined to approach road safety issues with tenacity. Despite the use of sustained road safety publicity campaigns to encourage greater responsibility among drivers and the continued commitment of the Government to tackle the issue of road safety through education and with so many road safety engineering and enforcement measures being taken throughout the Country, there are still many drivers in our society who are not prepared to change their behaviour.

We, therefore, need to take bold decisions in order to protect our citizens from inappropriate and careless driving and to put a halt to aberrant driving behaviours.

This amendment to the Road Traffic Act comes at an opportune time as it fits within Government priority. By providing for the application of the penalty points system to driving licences and the payment of fixed penalties Government is sending a strong signal to all defaulters that we mean business by making our law more stringent and enforcement more effective.

Mr Speaker Sir,

We are not re-inventing the wheel. In fact, this piece of legislation has already proved its essence in many foreign jurisdictions.
The penalty point system however, is not only designed in a context of deterrence, because it has clearly also an education dimension. Indeed, it puts in the hands of each licensee a “self-control education” with the ability to manage itself the capital of points it has.

Mr Speaker Sir,

In Italy, for instance, it was estimated – using data on road accidents, traffic fatalities and driving offences taking place over the period 2001 to 2005 – the introduction in July 2003 of a penalty point system for driving offences had led to a reduction of road accidents.

Similarly, when this piece of legislation was passed in France in 1992, the number of accidents was reduced by almost 50%.

Mr Speaker Sir,

It is in this respect that this caring Government has reviewed our law on road traffic legislation and the “penalty point system” from a comparative perspective with a view to ascertaining whether it is in line with best international practices. It has also considered whether the legislative scheme devised for the “penalty point system” complies with the requirements of the Constitution and its human rights guarantees.

Under our system, the power to suspend a driving licence is regarded as a judicial function and must be entrusted to courts pursuant to the case of *Durocher v Commissioner of Police [2008] MR 97*.

Penalty points have been defined as points allocated to a person by a Court by way of additional penalty for an offence under this Act or pursuant to section 191 which deals with Fixed Penalty Notices (FPN) or section 195 which deals with Photographic Enforcement Device Notice (PEDN).

The imposition of penalty points is an additional penalty because the fines and other penalties which are already provided for in the Act for those offences listed in the first Schedule are maintained. All the offences listed in the First Schedule are
safety related so that the primary purpose of this legislation is to aim at having a better safer system for all road users.

The maximum number of penalty points for the holder of a provisional driving licence will be 10 points and, for the holder of a driving licence which is not a provisional one, 15 points.

Mr Speaker Sir,

Penalty points will have a life span of 36 months as from the day when they were allocated.

The definition of driving licence has been amended so that it shall comprise a licence card and also a paper counterpart. It will be a legal obligation to have at any point in time both the licence card and the paper counterpart or an up to date photocopy of both.

The paper counterpart which will be attached to the licence card will have affixed on it all the penalty points which a person has accumulated.

In fact, a person will know how many points he has just by looking at the paper counterpart. In addition a driving licence holder may apply to the licensing officer, at any time and on payment of the prescribed fee, to be issued with a penalty point certificate stating the number of penalty points already allocated to that person.

Mr Speaker Sir,

Before any Fixed Penalty Notice and Photographic Enforcement Device Notice is issued to a person, that person shall be informed by the police officer of the offence which he has committed and the penalty points which it carries. On being made aware of same the person may opt to accept either a Fixed Penalty Notice or a Photographic Enforcement Device Notice. The number of penalty points that the particular offence carries will be written on those notices. Before paying the pecuniary penalty specified either Fixed Penalty Notice or Photographic Enforcement Device Notice, the person also signifies his acceptance of the penalty points by signing the forms.
It is noteworthy that an incentive is being given to a person to accept either a Fixed Penalty Notice or a Photographic Enforcement Device Notice so that if a person has committed only one offence, the Fixed Penalty Notice or Photographic Enforcement Device Notice shall make reference to the lowest number of penalty points in respect of that offence. If on a single occasion more than one offence has been detected, the offender will only have the lowest number of the highest range.

By making provision for the lowest number of penalty points to be applied for any person who has been served a Fixed Penalty Notice or Photographic Enforcement Device Notice, the Bill is seeking to encourage offenders to accept such notices without having recourse to the Court system.

Mr Speaker Sir,

The Court will also be able to allocate penalty points if the person does not accept the Fixed Penalty Notice or Photographic Enforcement Device Notice or else for any other offence which is listed in the Third Schedule to the Bill. In the Third Schedule there is a range of points which is provided for each offence so that the Magistrate will be able to assess the evidence before him/her and look at all the circumstances of the case to decide which point within the range will be applicable for that particular offence. If a person has committed more than one offence on a single occasion, the Court shall only allocate the highest number of penalty points in respect of the offence carrying the highest range of penalty points. What in effect happens is that if a person has committed 3 offences on a single occasion, instead of awarding penalty points in respect of 3 offences, the Court shall only allocate penalty points for the one offence but it has to be the offence which has the highest number of points and in that range the offender will have the highest of points.

The procedure before any Court of law will be the same as for any road traffic offence so that if the Court is satisfied that any person is guilty beyond reasonable doubt of any road traffic offence listed in the Third Schedule, the Court shall convict that person and require the licensing officer to produce a penalty points certificate in relation to that person before sentencing. Any person dissatisfied with the verdict of the Court may appeal as for any other case and if an appeal has been lodged, the decision of the Court shall pending the appeal be suspended.
Any person who has exceeded the maximum number of penalty points, which is 10 for the holder of a provisional driving licence and 15 for any other licence, shall be disqualified from holding or obtaining a driving licence for all classes of motor vehicles for a period of not less than 6 months by a Court of law.

Mr Speaker Sir,

If ever a person has more than one case pending before different Courts or has been issued with a Photographic Enforcement Device Notice or Fixed Penalty Notice so that the Court is not aware that the person has exceeded the maximum number of penalty points, but the licensing officer subsequently becomes aware that the person has exceeded the maximum number of penalty points, the licensing officer shall be entitled to make a written application to the Magistrate for the issue of a summons to show cause why the person shall not be disqualified for holding or obtaining a driving licence. The Magistrate shall, after hearing that person, disqualify him from holding or obtaining a driving licence for all classes of motor vehicles for a period of not less than 6 months.

At the end of any period of disqualification, every licence shall be surrendered to the licence holder on payment of the prescribed fee.

Mr Speaker Sir,

A person who has been convicted of an offence of drink driving will not be allocated penalty points because the Road Traffic Act already imposes a tougher penalty for drink driving. The Second Schedule to the Road Traffic Act provides, in the case of a breach of section 123E, for cancellation to driving licence being permissible, and disqualification of a minimum period of 12 months and endorsement being mandatory for a first time offender. For a breach of section 123F, cancellation is permissible and disqualification for a minimum period of 8 months and endorsement are obligatory for a first time offender.

To conclude, Mr Speaker Sir, the key determinant of road safety performance is the behaviour of road users. Consequently, the primary focus of our Road Safety Strategy is to positively influence that behaviour. This can be attained through
initiatives across a range of areas including the enactment and enforcement of laws that promote good road user behaviour.

Mr Speaker Sir,

This Bill will help to deliver improvements to the manner in which all drivers interact with our road system. Society both expects and requires these improvements, whether in the short, medium or long term.

The Road Traffic (Amendment) Bill is a testament to the radical approach that is being taken towards the development of a robust road safety policy.

Mr Speaker Sir,

I had the opportunity of chairing a number of meeting during the preparation of this Bill and I seize the opportunity to thank officers from the Ministry of Public Infrastructure, Land Transport and Shipping, the National Transport Authority, the Police, my Officers, Sir Victor Glover, the Law Reform Commission, Professor Garron and Mr Bentipilly, Adviser to the Prime Minister for their support and collaboration in the preparation and finalisation of the Bill.

This piece of legislation should not be interpreted as an instrument of sanction mais comme un instrument de dissuasion pour une bonne conduite au volant qui constituera par la même occasion un apport certain pour la sécurité sur nos routes.