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**AN BILLE UM RIALÁIL TACSAITHE 2003**  
**TAXI REGULATION BILL 2003**

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**EXPLANATORY MEMORANDUM**

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*General*

The principal purposes of this Bill can be summarised as follows—

- to provide for the establishment of the Commission for Taxi Regulation;
- to provide for a new code for the regulation of small public service vehicles and their drivers with a particular emphasis on the establishment of a qualitative and consumer orientated licensing system;
- to realise the establishment of the Advisory Council to the Commission for Taxi Regulation which will advise both the Commission and the Minister for Transport in relation to issues relevant to small public service vehicles and their drivers.

*Section 1* is a standard provision regarding the short title of the Bill.

*Section 2* sets out definition of various terms which are referred to in the Bill.

Particular attention is drawn to the following:

- “Commission” is defined to mean the Commission for Taxi Regulation
- “Council” means the Advisory Council to the Commission
- “the Minister” means the Minister for Transport.

*Section 3* contains standard provisions relating to orders and regulations made under the Bill by the Minister or the Commission, including the requirement of laying such orders and regulations before each House of the Oireachtas.

*Section 4* provides that where the Minister incurs expenses under the Act, they may be paid out of monies provided by the Oireachtas, as sanctioned by the Minister for Finance.

*Section 5* empowers the Minister to make an order for the establishment of the Commission.

*Section 6* provides for the establishment of the Commission for Taxi Regulation, that the Commission will be a body corporate and will have all the powers necessary for the performance of its functions under the Bill.

*Section 7* provides for the seal of the Commission, the authentication of the seal and that Judicial notice shall be taken of it.

*Section 8* establishes that the Commission will be independent in the exercise of its functions.

*Section 9* establishes both the principal function and the objectives of the Commission.

*Subsection (1)* presents the Commission's principal function as being the development and maintenance of a regulatory framework for the control and operation of small public service vehicles and their drivers.

*Subsection (2)* outlines the objectives of the Commission. A particular emphasis is placed on the promotion and maintenance of a quality service by small public service vehicles and their drivers, that is professional, safe and has a strong customer orientation.

*Subsection (3)* provides that the functions of the Commission may be exercised by its staff or persons authorised by the Commission.

*Section 10* provides that the Minister can give policy directions to the Commission in relation to small public service vehicles and their drivers, which the Commission must comply with. *Subsection (3)* provides that any directions given under the section must be laid before each House of the Oireachtas and be published in *Iris Oifigiúil*.

*Section 11* allows the Commission to use income generated by receipts from licence fees to provide financial assistance to local authorities to support developments that facilitate and support the operation of small public service vehicles. A scheme prepared by the Commission for the purposes of this section will be subject to consultation with the Advisory Council and the consent of the Minister.

*Section 12* permits the Commission to engage a statutory body to provide services to support the performance of the Commission functions.

*Section 13* provides that the Commission shall consist of not more than 3 members, each to be known as a Commissioner. *Subsection (3)* provides specifically that the Commission can regulate its own procedures.

*Section 14* provides for the appointment and terms of office of the Commissioners.

*Subsection (1)* provides that the Minister is responsible for the appointment of each Commissioner. Under *subsection (2)* such an appointment can only be made following the holding of a competition by the Civil Service and Local Appointments Commission.

*Subsection (3)* establishes that the period of appointment for a Commissioner will be not less than 3 years and not more than 5 years.

*Subsection (4)* relates to the appointment by the Minister of a Chairperson of the Commission, where there is more than 1 Commissioner, and *subsection (5)* provides that the Chairperson will have a casting vote where it is necessary.

*Subsections (6) and (7)* provide that the maximum period that a Commissioner can serve will be 10 years.

*Subsections (8) and (9)* provides that where the chairperson is not available, another Commissioner can be chosen by the Minister as an acting chairperson and that the Commission can perform its functions even when there is a vacancy in its membership.

*Section 15* provides that where there is only one Commissioner, he or she may appoint a member of the Commission staff to be a deputy commissioner.

*Section 16* provides for the resignation of or the removal of a Commissioner by the Minister. *Subsection (2)* establishes the parameters that must apply in the case of a decision to remove a Commissioner. *Subsection (3)* provides that the Minister must give a statement of reasons for the removal of a Commissioner and the statement must be laid before the Houses of the Oireachtas.

*Section 17* establishes that where a Commissioner becomes a member of the Oireachtas, the European Parliament or a local authority, he or she will be deemed to have vacated his or her office with the Commission. *Subsections (4) and (5)* also provide that a Commissioner cannot take up other paid employment or take up a consultancy or employment within a year of leaving the Commission that would have a direct relevance to the duties he or she exercised as a Commissioner.

*Section 18* provides that the Commission may, subject to the consent of the Ministers for Transport and Finance, determine the number, grading, remuneration and other conditions of service of its staff and appoint persons to be members of its staff.

*Subsection 2* clarifies the position of staff of the Commission with previous service in the Civil Service or Local Government service.

*Section 19* allows the Commission to engage consultants or advisors for the purpose of assisting in the discharge of its functions.

*Section 20* establishes the position relating to the Commissioner's staff with regard to membership of the Oireachtas, the European Parliament and local authorities.

*Subsection (1)* provides that on becoming a member of any of those institutions, an employee of the Commission will be seconded to that institution for the period of his or her membership.

*Subsection (2)* provides that members of such institutions are disqualified from becoming members of the staff of the Commission.

*Subsection (3)* provides that a period of secondment referred to in *subsection (1)*, may not be reckoned as service with the Commission for superannuation purposes.

*Section 21* places an obligation on Commissioners, staff, advisers, consultants, authorised persons and agents of the Commission not to disclose confidential information obtained by them while performing their duties.

*Subsection (3)* provides that a person who contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000 and *subsection (5)* provides that the Commission can prosecute such an offence.

*Subsection (4)* clarifies the position in relation to the disclosure of information in a report made to the Commission or by or on behalf of the Commission to the Minister, while *subsection (6)* amends the Freedom of Information Act 1997 by inserting the reference to this Bill when enacted into the Third Schedule for the purpose of setting aside the secrecy provisions of this section for the purposes of FOI.

*Section 22* establishes requirements on Commissioners, the staff of the Commission, advisers, consultants or any other person engaged by the Commission to disclose any interests that may be of relevance to the functions of the Commission.

*Subsection (2)* clarifies that an interest for the purposes of the section includes a licence to operate or drive a small public service vehicle.

*Section 23* provides for the establishment of a superannuation scheme for Commissioners.

*Section 24* provides for the establishment of a superannuation scheme for the staff of the Commission.

*Section 25* provides that the Commission will be required to give evidence before the the Dáil Public Accounts Committee and specifically any other Committee of one or both Houses of the Oireachtas.

*Section 26* allows the Commission to receive advances out of moneys provided for by the Oireachtas.

*Section 27* enables the Commission, with the consent of the Minister and the Minister for Finance, to borrow money for the purpose of carrying out its functions.

*Section 28* requires the Commission to draw up a Statement of Strategy within 1 year of its establishment and every 5 years thereafter. The statement must be subject to a public consultation process, be presented to any Committee of the Houses of the Oireachtas as the Minister directs and be made public.

*Section 29* provides for the keeping of accounts by the Commission, the auditing of these accounts by the Comptroller and Auditor General and for their laying before each House of the Oireachtas, together with the report of the Comptroller and Auditor General and for the presentation of an annual report of the Commission to the Minister.

*Section 30* obligates the Commission to keep abreast of policies, objectives, resolutions and guidelines which may emerge from the Minister, the European Commission and any other public authority inside or outside the State which may have a bearing on any matter with which the Commission is concerned.

*Section 31* allows the Commission to publish any report or code of practice on matters relating to its functions.

*Section 32* empowers the Commission to purchase, lease, equip and maintain offices and premises for the purposes of discharging its functions, subject to the consent of the Minister and the Minister for Finance.

*Section 33* provides that the Minister may make orders bringing the provisions of Part 3 of the Bill into operation. This part provides for the regulation of small public service vehicles.

*Section 34* provides a new legislative basis for the regulation of the licensing, control and operation of small public service vehicles and their drivers. It will replace section 82 of the Road Traffic Act 1961 and empowers the Commission to make regulations that will provide a replacement to the current Public Service Vehicle Regulations.

*Subsection (1)* empowers the Commission to make regulations relating to the licensing, ownership, control and operation of small public service vehicles and the licensing and control of the drivers of such vehicles. The subsection also establishes a benchmark to the overall focus of the new licensing regime which will relate primarily to qualitative standards.

*Subsection (2)* provides for the regulation of a broad range of matters such as

- the categorisation of small public service vehicles and their drivers;
- the determination of the appropriate authorities for the purpose of granting licences;
- requirements for the consideration and grant of licences;
- standards for the operation of licensed vehicles;
- the inspection of vehicles both for the purpose of the grant of licences and the ongoing operation of the licensed vehicles;
- the determination of powers for authorised persons (see *section 49*) in connection with regulations made under this section.

*Subsection (3)* provides that the Commission can establish requirements and conditions for licence applicants in respect of a number of areas focused on the delivery of good quality services to consumers.

*Subsection (4)* allows the Commission to authorise or approve persons for the purpose of making determinations as to the competence of a licence applicant in respect of any of the areas in respect of which standards are applied.

*Subsections (5) and (6)* relate specifically to the licensing of the drivers of small public service vehicles. The former provides that the Commissioner of the Garda Síochána must be consulted in respect of any regulation made that relates to drivers. *Subsection (6)* provides for the regulation of additional issues over those provided for in *subsections (2) and (3)* in relation to drivers, following consultation with the Garda Commissioner and the Advisory Council.

*Subsections (7)-(9)* relate generally to the making of regulations and provide in particular that different requirements and conditions can be applied to different categories of vehicle and driver licences.

*Subsection (10)* provides that a person who fails to comply with or contravenes a regulation under this section, will be guilty of an offence.

*Section 35* provides that any decision made to refuse, suspend or revoke a licence can be reviewed at the request of the licence holder and that where the decision is upheld, an appeal can be made to the District Court.

*Section 36* introduces a system of automatic disqualification from applying for or holding a licence for those who have been convicted of one of a range of very serious offences. The section includes provisions through which a person who is affected by this provision can

request the courts to allow them to apply for a licence in certain restricted circumstances.

In addition, where a person has committed one of a number of serious traffic offences he or she will be disqualified for holding a licence to drive a small public service vehicle for a period additional to any driving disqualification that is applied.

*Section 37* provides that all decisions to grant licences under the Bill will be subject to the production by the applicant of a tax clearance certificate.

*Section 38* provides that the Commission can establish a register of licences which will include data held by other licensing authorities.

*Section 39* empowers the Commission to make regulations in relation to the conduct and the duties of drivers of small public service vehicles.

*Subsection (2)* sets out a range of matters in respect of which the Commission may set requirements through regulations including requirements relating to the general behaviour and deportment of the drivers of small public service vehicles while driving or otherwise using such vehicles. A driver who does not comply with such requirements will be guilty of an offence.

*Section 40* establishes obligations and rules that apply to any person who is either a passenger or an intending passenger or a hirer of a small public service vehicle. The obligations include reference to general or criminal behaviour and to the payment of fares.

*Section 41* provides that the Commission can declare an area to be a taximeter area and to alter or extend existing taximeter areas following consultation with the Garda Commissioner, the Advisory Council and the relevant local authority.

*Section 42* provides that the Commission may make orders fixing the maximum fares for taxis operating in any taximeter area following a consultation process including public advertisement. Fares can be fixed for either shared or single hires.

*Section 43* provides that a person shall not use a mechanically propelled vehicle in a public place for the carriage of persons for reward unless both the vehicle and its driver is licensed under this Bill.

*Section 44* establishes a range of penalties to be applied on conviction for offences under this Bill. Generally maximum penalties of up to €3,000 or €1,500 can be applied depending on the seriousness of the offence. However an offence of being engaged in any activity relating to the operation of small public service vehicles when disqualified under *section 36* could on conviction on indictment, face a fine of up to €50,000 and/or 3 years in jail.

*Section 45* provides that offences under the Bill can be prosecuted by the Commission, a member of the Gardaí, another authorised person or another licensing authority.

*Section 46* empowers the Commission to make regulations for the purpose of applying fixed charges to offences under the Bill. The payment of a fixed charge will mean that a prosecution will not be taken.

*Section 47* provides that the Commission may draw up guidelines for other licensing authorities in relation to the licensing and operation of small public service vehicles and their drivers.

*Section 48* empowers the Commission to establish a quality service certification scheme to be applied to services that support small public service vehicle operations.

*Section 49* provides that authorised persons may be appointed by the Commission. Members of the Gardaí will be automatically regarded as authorised persons. Authorised persons will perform the enforcement functions necessary to support the regulations and other controls applied under this Bill.

*Section 50* provides that the fees set by the Commission under the Bill will accrue to the Commission.

*Subsection (3)* provides that where another body is carrying out licensing functions on behalf of the Commission, a percentage of the fees received as a result of that bodies involvement can be retained by it. The determination of that percentage will be subject to agreement with the Minister and the Minister for Finance.

*Subsection (4)* provides that where there is excess income available to the Commission each year, having provided for the necessary funding provided for in this section, its disposal will be provided for in agreement with the Minister and the Minister for Finance.

*Section 51* provides that section 82 of the Road Traffic Act 1961 will continue to apply to the licensing and operation of large public service vehicles only.

*Section 52* provides that the Minister may make an Order for the establishment of the Advisory Council to the Commission for Taxi Regulation.

*Section 53* provides for the establishment of the Advisory Council and for its membership. The Minister will appoint the Council, Chairperson and members. Members may be nominated from a range of disciplines or interest groupings referred to in *subsection (4)*.

*Section 54* provides that the general duty of the Council will be to advise the Commission or the Minister in relation to issues relevant to small public service vehicles and their drivers.

The range of matters in respect of which the Council may provide advice from time to time to either the Commission or to the Minister are set out in *subsection (2)*.

*Section 55* provides for an amendment to *section 23* of the Road Traffic Act 2002 to make a correction to the maximum fine that may be imposed in respect of two offences under section 106 of the Road Traffic Act 1961.

*Section 56* promotes a minor amendment to the wording of the chapeau to Part 1 of the First Schedule to the Road Traffic Act 2002 and for the sake of clarity it restates the full chapeau.

*An Roinn Iompair,  
Meitheamh, 2003.*