



AN BILLE UM THRÁCHT AR BHÓITHRE 2003
ROAD TRAFFIC BILL 2003

EXPLANATORY MEMORANDUM

The purpose of this Bill is to provide for the amendment and clarification of certain provisions in the Road Traffic Acts in so far as they relate to the preliminary breath testing (breathalysing) of drivers.

The amendments being introduced are of a technical nature and are required in order to bring certainty to the changes to the system of preliminary breath testing introduced through section 10 of the Road Traffic Act 2002 which had provided for the replacement of the original section 12 of the Road Traffic Act 1994. That section is repealed through *section 4* of this Bill.

Section 1 sets out a definition of the Road Traffic Act 1994.

Section 2 provides for the replacement of section 12 of the Road Traffic Act 1994, which provides the basis for the operation of preliminary breath testing of drivers.

Subsection (1) extends the grounds on which a member of the Garda Síochána may require a driver to provide a preliminary (breathalyser) breath specimen to include situations where a member is of the opinion that a person in charge of a mechanically propelled vehicle was involved in a collision or had committed a traffic offence. The original section 12 allowed for the carrying out of a preliminary breath test only where the Garda has formed an opinion that a person in charge of a mechanically propelled vehicle has consumed intoxicating liquor. That power is retained in the new subsection.

Subsection (2) provides that where a Garda has formed the opinion that the person has consumed alcohol in the circumstances provided for in *subsection (1)*, he or she may require the person to provide a preliminary sample of their breath either at the scene or in a place or vehicle in the vicinity. If the Garda does not have the appropriate apparatus, he or she can require the person to remain for a period of no more than one hour at the location until a breathalyser can be brought to the scene.

A person who fails to comply with *subsection (2)* will be guilty of an offence and will be liable on summary conviction to a fine not exceeding €2,500 or imprisonment of a term not exceeding six months or both. A member of the Garda Síochána will be empowered to arrest without warrant any person who, in the Garda's opinion, is committing or has committed an offence under this section (*subsections (3) and (4)*).

Subsection (5) restates the presumption that the apparatus used to obtain a preliminary breath sample is an apparatus for indicating the presence of alcohol in the breath.

Section 3 provides for the amendment of section 13(1) of the Road Traffic Act 1994 to provide that a person arrested under section 12(4) for refusing to submit to a preliminary breath test may be required to submit to a blood, urine or evidential breath test.

Section 4 provides for the repeal of section 10 of the Road Traffic Act 2002, the provisions of which have been amended and provided for in *section 2* of this Bill.

Section 5 contains standard provisions regarding the short title of the Bill, a new collective citation for the Road Traffic Acts to include this Bill and for the commencement of the Bill.

An Roinn Iompair,
Samhain, 2003.