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**AN BILLE UM THRÁCHT AR BHÓITHRE 2009**  
**ROAD TRAFFIC BILL 2009**

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*Mar a tionscnaíodh*  
*As initiated*

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ACTS REFERRED TO

Civil Service Commissioners Act 1956	1956, No. 45
Civil Service Regulation Act 1956	1956, No. 46
Courts (No. 3) Act 1986	1986, No. 33
European Communities Act 1972	1972, No. 27
Finance Act 1976	1976, No. 16
Finance Act 1993	1993, No. 13
Fire Services Act 1981	1981, No. 30
Garda Síochána Act 2005	2005, No. 20
Licensing Act 1872	1872, c. 94
Local Authority (Traffic Wardens) Act 1975	1975, No. 14
Local Government Act 2001	2001, No. 37
Medical Practitioners Act 2007	2007, No. 25
Nurses Act 1985	1985, No. 18
Offences against the Person Act 1861	1861, c. 100
Petty Sessions (Ireland) Act 1851	1851, c. 93
Probation of Offenders Act 1907	1907, c. 17
Railway Safety Act 2005	2005, No. 31
Road Traffic Act 1961	1961, No. 24
Road Traffic Act 1968	1968, No. 25
Road Traffic Act 1994	1994, No. 7
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Road Traffic Act 2006	2006, No. 23
Road Traffic and Transport Act 2006	2006, No. 28
Road Transport Act 1933	1933, No. 8
Road Transport Act 1986	1986, No. 16
Roads Act 2007	2007, No. 34
Social Welfare Consolidation Act 2005	2005, No. 26
Taxi Regulation Act 2003	2003, No. 25



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**AN BILLE UM THRÁCHT AR BHÓITHRE 2009**  
**ROAD TRAFFIC BILL 2009**

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# **BILL**

*entitled*

5 AN ACT TO AMEND AND EXTEND THE ROAD TRAFFIC  
ACTS 1961 TO 2007.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

## PART 1

### PRELIMINARY AND GENERAL

10 **1.—(1)** This Act may be cited as the Road Traffic Act 2009.

Short title,  
commencement,  
collective citation  
and construction.

(2) This Act comes into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.

15 (3) The Road Traffic Acts 1961 to 2007 and this Act may be cited as the Road Traffic Acts 1961 to 2009 and shall be read together as one.

**2.—In this Act—**

Definitions.

20 “Act of 1968” means Road Traffic Act 1968;

“Act of 1975” means Local Authority (Traffic Wardens) Act 1975;

“Act of 1994” means Road Traffic Act 1994;

“Act of 2002” means Road Traffic Act 2002;

“Act of 2004” means Road Traffic Act 2004;

25 “Act of 2006” means Road Traffic Act 2006;

“Minister” means Minister for Transport;

“Principal Act” means Road Traffic Act 1961.

PART 2

INTOXICATED DRIVING OFFENCES

CHAPTER 1

*General*

Interpretation —  
*Part 2.*

- 3.—(1)** In this Part— 5
- “analysis” includes any operation used in determining the concentration of alcohol in a specimen of breath, blood or urine, and any operation used in determining the presence (if any) of a drug or drugs in a specimen of blood or urine, and cognate words shall be construed accordingly; 10
- “Bureau” has the meaning assigned to it by section 37(1) of the Act of 1968;
- “designated” means designated by a member of the Garda Síochána;
- “doctor” means a person registered in the General Register of Medical Practitioners established under section 43(1) of the Medical Practitioners Act 2007; 15
- “first driving licence” means a driving licence issued by a licensing authority to a person who has not previously held a driving licence;
- “impairment test regulations” means regulations made under *section 10(3)*; 20
- “impairment tests” means tests prescribed under impairment test regulations;
- “intoxicant” includes alcohol and drugs and any combination of drugs or of drugs and alcohol;
- “nurse” means a person registered in the register of nurses established under section 27 of the Nurses Act 1985; 25
- “specified person” means a person who at the time of an alleged offence under *section 4* in respect of driving or attempting to drive or *section 5* in respect of being in charge of, a mechanically propelled vehicle— 30
- (a) is the holder of a learner permit,
  - (b) holds his or her first driving licence, for a period not exceeding 2 years from its date of issue,
  - (c) is the holder of a driving licence licensing the holder to drive a vehicle in the category D, D1, EB, EC, EC1, ED, ED1 and W while driving, attempting to drive or being in charge of such a vehicle, 35
  - (d) is the holder of a licence to drive a small public service vehicle granted under section 34 of the Taxi Regulation Act 2003 or section 82 of the Principal Act while driving, attempting to drive or being in charge of such a vehicle when the vehicle is being hired or plying for hire, 40



(e) does not hold, at the time or, at any time within the period of 5 years prior to the commission, of the alleged offence a driving licence for the time being having effect and licensing the person to drive a vehicle of the category concerned, or

(f) is deemed under *section 7* to be a specified person.

(2) Where a person holds a driving licence referred to in *paragraph (c)* or *(d)* of the definition of “specified person” in *subsection (1)* it is presumed, until the contrary is shown, that the person was driving at the time of the alleged offence a vehicle of the category concerned or a small public service vehicle being hired or plied for hire, as the case may be.

## CHAPTER 2

### *Intoxicated driving offences*

15 4.—(1) A person shall not drive or attempt to drive a mechanically propelled vehicle in a public place while he or she is under the influence of an intoxicant to such an extent as to be incapable of having proper control of the vehicle.

Prohibition on driving mechanically propelled vehicle while under influence of intoxicant.

20 (2) A person shall not drive or attempt to drive a mechanically propelled vehicle in a public place while there is present in his or her body a quantity of alcohol such that, within 3 hours after so driving or attempting to drive, the concentration of alcohol in his or her blood will exceed a concentration of—

(a) 50 milligrammes of alcohol per 100 millilitres of blood, or

25 (b) in case the person is a specified person, 20 milligrammes of alcohol per 100 millilitres of blood.

30 (3) A person shall not drive or attempt to drive a mechanically propelled vehicle in a public place while there is present in his or her body a quantity of alcohol such that, within 3 hours after so driving or attempting to drive, the concentration of alcohol in his or her urine will exceed a concentration of—

(a) 67 milligrammes of alcohol per 100 millilitres of urine, or

(b) in case the person is a specified person, 27 milligrammes of alcohol per 100 millilitres of urine.

35 (4) A person shall not drive or attempt to drive a mechanically propelled vehicle in a public place while there is present in his or her body a quantity of alcohol such that, within 3 hours after so driving or attempting to drive, the concentration of alcohol in his or her breath will exceed a concentration of—

40 (a) 22 microgrammes of alcohol per 100 millilitres of breath, or

(b) in case the person is a specified person, 9 microgrammes of alcohol per 100 millilitres of breath.

45 (5) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.

(6) A person charged with an offence under this section may, in lieu of being found guilty of that offence, be found guilty of an offence under *section 5*.

(7) Section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.

(8) A member of the Garda Síochána may arrest without warrant a person who in the member's opinion is committing or has committed an offence under this section.

Prohibition on being in charge of mechanically propelled vehicle while under influence of intoxicant.

**5.—(1)** A person commits an offence if, when in charge of a mechanically propelled vehicle in a public place with intent to drive or attempt to drive the vehicle (but not driving or attempting to drive it), he or she is under the influence of an intoxicant to such an extent as to be incapable of having proper control of the vehicle.

(2) A person commits an offence if, when in charge of a mechanically propelled vehicle in a public place with intent to drive or attempt to drive the vehicle (but not driving or attempting to drive it), there is present in his or her body a quantity of alcohol such that, within 3 hours after so being in charge, the concentration of alcohol in his or her blood will exceed a concentration of—

(a) 50 milligrammes of alcohol per 100 millilitres of blood, or

(b) in case the person is a specified person, 20 milligrammes of alcohol per 100 millilitres of blood.

(3) A person commits an offence if, when in charge of a mechanically propelled vehicle in a public place with intent to drive or attempt to drive the vehicle (but not driving or attempting to drive it), there is present in his or her body a quantity of alcohol such that, within 3 hours after so being in charge, the concentration of alcohol in his or her urine will exceed a concentration of—

(a) 67 milligrammes of alcohol per 100 millilitres of urine, or

(b) in case the person is a specified person, 27 milligrammes of alcohol per 100 millilitres of urine.

(4) A person commits an offence if, when in charge of a mechanically propelled vehicle in a public place with intent to drive or attempt to drive the vehicle (but not driving or attempting to drive it), there is present in his or her body a quantity of alcohol such that, within 3 hours after so being in charge, the concentration of alcohol in his or her breath will exceed a concentration of—

(a) 22 microgrammes of alcohol per 100 millilitres of breath, or

(b) in case the person is a specified person, 9 microgrammes of alcohol per 100 millilitres of breath.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.

(6) A person charged with an offence under this section may, in lieu of being found guilty of that offence, be found guilty of an offence under *section 4*.

(7) Section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.

5 (8) In a prosecution for an offence under this section it shall be presumed that the defendant intended to drive or attempt to drive the vehicle concerned until he or she shows the contrary.

10 (9) A person liable to be charged with an offence under this section shall not, by reference to the same occurrence, be liable to be charged under section 12 of the Licensing Act 1872 with the offence of being drunk while in charge, on a highway or other public place, of a carriage.

(10) A member of the Garda Síochána may arrest without warrant a person who in the member's opinion is committing or has committed an offence under this section.

6.—(1) A person shall not, in a public place—

15 (a) drive or attempt to drive, or be in charge of, an animal-drawn vehicle, or

Prohibition on driving animal-drawn vehicle or pedal cycle while under influence of intoxicant.

(b) drive or attempt to drive a pedal cycle,

20 while he or she is under the influence of an intoxicant to such an extent as to be incapable of having proper control of the vehicle or cycle.

(2) A person who contravenes *subsection (1)* commits an offence and—

(a) if the offence relates to an animal-drawn vehicle, he or she is liable on summary conviction—

25 (i) in the case of a first offence, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 1 month or to both, and

30 (ii) in the case of a second or subsequent offence, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months or to both,

or

(b) if the offence relates to a pedal cycle, he or she is liable on summary conviction to a fine not exceeding €2,000.

35 (3) A person liable to be charged with an offence under this section shall not, by reference to the same occurrence, be liable to be charged under section 12 of the Licensing Act 1872 with the offence of being drunk while in charge, on a highway or other public place, of a carriage.

40 (4) Where a member of the Garda Síochána is of opinion that a person is committing or has committed an offence under this section, he or she may arrest the person without warrant.

*Roadside breath and impairment testing*

Procedure in relation to person required to undergo breath test who cannot produce his or her driving licence.

7.—(1) Where a person who is in charge of a mechanically propelled vehicle is required by a member of the Garda Síochána under *section 8* or *9* to provide a specimen of his or her breath and the person is unable to produce and present, at the demand of the member under *section 40* of the Principal Act, to the member a driving licence held by the person, the person is deemed to be a specified person for the purposes of *section 4* or *5*, as the case may be, where an apparatus for indicating the presence of alcohol in the breath indicates a concentration of more than 9 microgrammes of alcohol per 100 millilitres of breath present in the body of the person.

(2) A person referred to in *subsection (1)* shall be dealt with accordingly under this Part, until such time as the person produces and presents, within 10 days of the requirement, to the member or another member of the Garda Síochána, at a Garda Síochána station nominated by the person, a driving licence held by the person or is able within that period to produce and present evidence that he or she holds a driving licence.

(3) Where a person on foot of a requirement by a member of the Garda Síochána under a provision referred to in *subsection (1)* to provide a specimen of his or her breath is required under *section 40* of the Principal Act to produce in accordance with *subsection (2)* a driving licence or learner permit or evidence that he or she holds such and the person fails to produce it or fails to permit the member to whom it is produced to read it and is charged with committing an offence under *section 40* of the Principal Act, *section 1(1)* of the Probation of Offenders Act 1907 does not apply to the offence.

(4) Where a person is tried for committing an offence under *section 4* or *5* for having as a specified person exceeded a concentration of alcohol referred to in the section concerned applicable to a specified person and it is shown to the court that the person at the time of the alleged offence was not a specified person, the court shall—

(a) where the person has produced and presented his or her driving licence to a member of the Garda Síochána under *section 40* of the Principal Act at the demand under that section of the member at the time of the alleged offence or produced the licence or evidence of holding such in accordance with *subsection (2)* or the vehicle concerned was not a vehicle referred to in *paragraph (c)* or *(d)* of the definition of “specified person” in *section 3(1)* and has exceeded the corresponding higher concentration of alcohol referred to in the section concerned applicable to a person who is not a specified person, try the person, accordingly, in relation to exceeding that second-mentioned concentration of alcohol and amend the summons in relation to the charge, or

(b) where the person did not so produce and present his or her driving licence or evidence of holding such, try the person accordingly as a specified person in relation to exceeding the concentration of alcohol specified in the summons.

(5) In this section “driving licence” means a driving licence (other than a driving licence referred to in *paragraph (c) or (d)* of the definition of “specified person” in *section 3(1)*) having effect and licensing the person to drive the vehicle used on the occasion in question.

- 5      8.—(1) Where a member of the Garda Síochána—
- Obligation to  
provide preliminary  
breath specimen.
- (a) is of opinion that a person in charge of a vehicle in a public place—
- (i) has consumed intoxicating liquor,
- (ii) is or has, with the vehicle, been involved in a collision, or
- 10          (iii) is committing or has committed an offence under the *Road Traffic Acts 1961 to 2009*,
- the member may require,
- or
- 15      (b) attends at the scene of an event which has occurred in a public place in which injury appears or is claimed to have been caused to a person of such nature as to require medical assistance for the person at the scene of the event or for the person to be brought to a hospital for medical
- 20      assistance and a vehicle was involved in the event, the member shall, subject to *subsection (2)*, require,
- the person in charge of the vehicle—
- (i) to provide, by exhaling into an apparatus for indicating the presence of alcohol in the breath, a specimen of his or
- 25      her breath in the manner indicated by the member,
- (ii) to accompany him or her to a place (including a vehicle) near the scene of the collision and there to provide, by exhaling into such an apparatus, a specimen of his or her breath in the manner indicated by the member, or
- 30      (iii) where the member does not have such an apparatus with him or her, to remain at that place in his or her presence or in the presence of another member of the Garda Síochána until such an apparatus becomes available to him or her (for a period that does not exceed one hour)
- 35      and the member may then require the person to provide, by exhaling into the apparatus, a specimen of his or her breath in the manner indicated by the member.
- (2) A member of the Garda Síochána shall not make a requirement of a person under *subsection (1)(b)* where, in the opinion of
- 40      the member, the person is incapable of complying with the requirement as a consequence of the person’s involvement in the event.
- (3) A person who refuses or fails to comply immediately with a requirement under this section commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.
- 45

(4) A member of the Garda Síochána may arrest without warrant a person who in the member's opinion is committing or has committed an offence under this section.

(5) In a prosecution for an offence under *section 4, 5 or 6* it shall be presumed, until the contrary is shown, that an apparatus provided by a member of the Garda Síochána for the purpose of enabling a person to provide a specimen of breath under this section is an apparatus for indicating the presence of alcohol in the breath. 5

(6) Section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section. 10

Mandatory alcohol testing.

9.—(1) In this section—

“authorisation” means an authorisation under *subsection (2)* to establish a checkpoint;

“checkpoint” means a checkpoint established under an authorisation.

(2) A member of the Garda Síochána, not below the rank of inspector, may, for the purposes of *section 4* authorise the establishment of a checkpoint or checkpoints in a public place or places at which members of the Garda Síochána may exercise the powers under *subsection (4)*. 15

(3) An authorisation shall be in writing and shall specify— 20

(a) the date on which, and the public place in which, the checkpoint is to be established, and

(b) the hours at any time between which it may be operated.

(4) A member of the Garda Síochána, who is on duty at a checkpoint, may stop any vehicle at the checkpoint and, without prejudice to any other powers (including the powers under *section 8*) conferred on him or her by statute or at common law, may require a person in charge of the vehicle— 25

(a) to—

(i) provide (by exhaling into an apparatus for indicating the presence of alcohol in the breath) a specimen of his or her breath, or 30

(ii) accompany him or her or another member of the Garda Síochána to a place (including a vehicle) at or in the vicinity of the checkpoint and there to provide, by exhaling into such an apparatus, a specimen of his or her breath, 35

or

(b) to—

(i) leave the vehicle at the place where it has been stopped, or 40

(ii) move it to a place in the vicinity of the checkpoint, and

keep or leave it there until the person has complied with a requirement made of him or her under *paragraph (a)*.

5 (5) A member of the Garda Síochána for the purposes of making a requirement of a person under *subsection (4)* may indicate the manner in which the person must comply with the requirement.

(6) A person who—

10 (a) refuses or fails to comply immediately with a requirement under *subsection (4)(a)* or *(b)(i)* or such a requirement in a manner indicated by a member of the Garda Síochána under *subsection (5)*, or

(b) without reasonable excuse, refuses or fails to comply immediately with a requirement under *subsection (4)(b)(ii)* or such a requirement in a manner indicated by a member of the Garda Síochána under *subsection (5)*,  
15 commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.

20 (7) A member of the Garda Síochána may arrest without warrant a person who in the member's opinion is committing or has committed an offence under this section.

(8) In a prosecution for an offence under *section 4* it shall be presumed, until the contrary is shown, that an apparatus provided by a member of the Garda Síochána for the purpose of enabling a person to provide a specimen of breath under this section is an apparatus  
25 for indicating the presence of alcohol in the breath.

(9) An authorisation or a copy expressing itself to be such authorisation, shall, until the contrary is shown, be sufficient evidence in any proceedings under the *Road Traffic Acts 1961 to 2009* of the facts stated in it, without proof of any signature on it or that the  
30 signatory was a person entitled under *subsection (2)* to sign it.

**10.**—(1) A member of the Garda Síochána, for the purposes of forming the opinion that a person in charge of a vehicle in a public place is under the influence of an intoxicant to such an extent as to be incapable of having proper control of the vehicle, if he or she  
35 considers it would assist him or her to form such opinion, may require the person to perform in the presence of the member or another member such impairment tests, in the manner indicated, in accordance with impairment test regulations, by the member or other member in whose presence the test is to be performed, as to allow  
40 the member to form the opinion.

Preliminary  
impairment testing.

(2) A member of the Garda Síochána in forming an opinion under *subsection (1)*, where a test under *subsection (1)* is performed in the presence of another member in the manner indicated by the other member, may take into account any advice or opinion given to him  
45 or her by the other member.

(3) The Minister may prescribe the form of tests, indicating the manner and type of the tests, for the purposes of *subsection (1)* and *section 11(1)(c)*.

50 (4) A person who, without reasonable excuse, fails to comply with a requirement under *subsection (1)* commits an offence and is liable



on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.

(5) A member of the Garda Síochána may arrest without warrant a person who in the member's opinion is committing or has committed an offence under this section. 5

(6) Section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.

#### CHAPTER 4

#### *Procedure in relation to providing specimen and undergoing impairment testing at Garda Síochána station, etc.* 10

Obligation to provide breath, blood or urine specimen and perform impairment tests following arrest under *Part 2*.

**11.—(1)** Where a person is arrested under *section 4(8), 5(10), 6(4), 8(4), 9(7) or 10(5)* of this Act or *section 52(3), 53(5), 106(3A) or 112(6)* of the Principal Act, a member of the Garda Síochána may, at a Garda Síochána station, do any or all of the following:

(a) require the person to provide, by exhaling into an apparatus for determining the concentration of alcohol in the breath, 2 specimens of his or her breath and may indicate the manner in which he or she is to comply with the requirement, 15

(b) require the person either— 20

(i) to permit a designated doctor or designated nurse to take from the person a specimen of his or her blood, or

(ii) at the option of the person, to provide for the designated doctor or designated nurse a specimen of his or her urine, 25

and if the doctor or nurse states in writing that he or she is unwilling, on medical grounds, to take from the person or be provided by him or her with the specimen to which the requirement in either of the foregoing subparagraphs related, the member may make a requirement of the person under this paragraph in relation to the specimen other than that to which the first requirement related, 30

(c) require the person to perform in the presence of the member or the member and another member or a designated doctor or designated nurse such impairment tests, in the manner indicated, in accordance with impairment test regulations, by the member, other member, doctor or nurse, as the case may be, in whose presence the test is to be performed, for the purposes of obtaining evidence that the person was at the time of being arrested incapable of having proper control of a vehicle. 35 40

(2) Subject to *section 21*, a person who refuses or fails to comply immediately with a requirement under *subsection (1)(a)* commits an offence. 45

(3) Subject to *section 21*, a person who, following a requirement under *subsection (1)(b)*—

(a) refuses or fails to comply with the requirement, or



(b) refuses or fails to comply with a requirement of a designated doctor or designated nurse in relation to the taking under that subsection of a specimen of blood or the provision under that subsection of a specimen of urine,

5 commits an offence.

(4) Subject to *section 21*, a person who refuses or fails to comply with a requirement under *subsection (1)(c)* to perform a test commits an offence.

10 (5) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.

15 (6) In a prosecution for an offence under this Part it shall be presumed, until the contrary is shown, that an apparatus provided by a member of the Garda Síochána for the purpose of enabling a person to provide 2 specimens of breath under this section is an apparatus for determining the concentration of alcohol in the breath.

(7) Section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.

20 (8) A member of the Garda Síochána in forming an opinion under *subsection (1)(c)* where a test under the provision concerned is performed in the presence of another member, a designated doctor or designated nurse in the manner indicated by the other member, the doctor or nurse, may take into account any advice or opinion given to him or her by that other member, the doctor or nurse, as the case  
25 may be.

**12.—(1)** Where, consequent on a requirement under *section 11(1)(a)* of him or her, a person provides 2 specimens of his or her breath and the apparatus referred to in that section determines the concentration of alcohol in each specimen—

Procedure following provision of breath specimen under *section 11*.

30 (a) in case the apparatus determines that each specimen has the same concentration of alcohol, either specimen, and

(b) in case the apparatus determines that each specimen has a different concentration of alcohol, the specimen with the lower concentration of alcohol,

35 shall be taken into account for the purposes of *sections 4(4)* and *5(4)* and the other specimen shall be disregarded.

(2) Where the apparatus referred to in *section 11(1)* determines that in respect of the specimen of breath to be taken into account as aforesaid the person may have contravened *section 4(4)* or *section*  
40 *5(4)*, he or she shall be supplied immediately by a member of the Garda Síochána with 2 identical statements, automatically produced by that apparatus in the prescribed form and duly completed by the member in the prescribed manner, stating the concentration of alcohol in the said specimen determined by the said apparatus.

45 (3) On receipt of those statements, the person shall on being requested so to do by the member—

(a) immediately acknowledge such receipt by placing his or her signature on each statement, and

(b) thereupon return either of the statements to the member.

(4) A person who refuses or fails to comply with *subsection (3)* commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months or to both.

5

(5) *Section 19(1)* applies to a statement under this section as respects which there has been a failure to comply with *subsection (3)(a)* as it applies to a duly completed statement under this section.

Obligation to provide blood or urine specimen while in hospital.

**13.—(1)** Where, in a public place, an event occurs in relation to a mechanically propelled vehicle in consequence of which a person is injured, or claims or appears to have been injured, and is admitted to, or attends at, a hospital and a member of the Garda Síochána is of opinion that, at the time of the event—

(a) the person was driving or attempting to drive, or in charge of with intent to drive or attempt to drive (but not driving or attempting to drive), the mechanically propelled vehicle, and

(b) the person had consumed an intoxicant,

then such member may, in the hospital, require the person either—

(i) to permit a designated doctor or designated nurse to take from the person a specimen of his or her blood, or

(ii) at the option of the person, to provide for the designated doctor or designated nurse a specimen of his or her urine,

and if the doctor or nurse states in writing that he or she is unwilling, on medical grounds, to take from the person or be provided by him or her with the specimen to which the requirement in either of the foregoing subparagraphs related, the member may make a requirement of the person under this subsection in relation to the specimen other than that to which the first requirement related.

(2) Subject to *section 21*, a person who, following a requirement under *subsection (1)*—

(a) refuses or fails to comply with the requirement, or

(b) refuses or fails to comply with a requirement of a designated doctor or designated nurse in relation to the taking under that subsection of a specimen of blood or the provision under that subsection of a specimen of urine,

commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.

(3) Notwithstanding *subsection (2)*, it is an offence for a person to refuse or fail to comply with a requirement under *subsection (1)* where, following his or her admission to, or attendance at, a hospital, the person comes under the care of a doctor or nurse and the doctor or nurse refuses, on medical grounds, to permit the taking or provision of the specimen concerned.

(4) *Section 1(1)* of the Probation of Offenders Act 1907 does not apply to an offence under this section.

14.—(1) Where under this Chapter a designated doctor or designated nurse has taken a specimen of blood from a person or has been provided by the person with a specimen of his or her urine, the doctor or nurse, as the case may be, shall divide the specimen into 2 parts, place each part in a container which he or she shall immediately seal and complete the form prescribed for the purposes of this section.

Procedure regarding taking of specimens of blood and provisions of specimens of urine.

(2) Where a specimen of blood or urine of a person has been divided into 2 parts under *subsection (1)*, a member of the Garda Síochána shall offer to the person one of the sealed containers and inform the person that he or she may retain either of the containers.

(3) As soon as practicable after *subsection (2)* has been complied with, a member of the Garda Síochána shall cause to be forwarded to the Bureau the completed form referred to in *subsection (1)*, together with the relevant sealed container or, where the person has declined to retain one of the sealed containers, both relevant sealed containers.

(4) In a prosecution for an offence under this Chapter or under *section 4* or *5*, it shall be presumed until the contrary is shown that *subsections (1) to (3)* have been complied with.

15.—(1) Where a person is at a Garda Síochána station having been arrested under *section 4(8)*, *5(10)*, *6(4)*, *8(4)*, *9(7)* or *10(5)* of this Act or *section 52(3)*, *53(5)*, *106(3A)* or *112(6)* of the Principal Act, he or she may, at the Garda Síochána station, if the member of the Garda Síochána for the time being in charge of the station is of opinion that the person is under the influence of an intoxicant to such an extent as to be a threat to the safety of himself or herself or others, be detained in custody for such period (not exceeding 6 hours from the time of his or her arrest or, as the case may be, from the time he or she was required to accompany a member to the station) as the member of the Garda Síochána so in charge considers necessary.

Detention of intoxicated drivers where a danger to selves or others.

(2) Where a person is detained under *subsection (1)*, the member of the Garda Síochána for the time being in charge of the Garda Síochána station shall—

(a) in case the person detained is or the said member is of opinion that he or she is 18 years of age or more, as soon as is practicable, if it is reasonably possible to do so, inform a relative of the person or such other person as the person so detained may specify of the detention, unless the person so detained does not wish any person to be so informed, and

(b) in case the person detained is or the said member is of opinion that he or she is under the age of 18 years, as soon as is practicable, if it is reasonably possible to do so, inform a relative of the person or such other person as the person so detained may specify of the detention.

(3) A person detained under *subsection (1)* shall—

(a) in case he or she is or the member of the Garda Síochána for the time being in charge of the Garda Síochána station is of opinion that he or she is 18 years of age or

more, upon the attendance at the station of a person being either a relative of, or a person specified under *subsection (2)* by, the person so detained, be released by the said member into the custody of that person, unless—

(i) the latter person is or the member is of opinion that he or she is under the age of 18 years, 5

(ii) the person so detained does not wish to be released into the custody of the latter person, or

(iii) the member is of opinion that the person so detained continues to be under the influence of an intoxicant to such an extent that, if he or she is then released into the custody of the latter person, he or she will continue to be a threat to the safety of himself or herself or others, 10

and shall, if not so released, be released at the expiration of the period of detention authorised by *subsection (1)*, and 15

(b) in case he or she is or the member of the Garda Síochána for the time being in charge of the Garda Síochána station is of opinion that he or she is under the age of 18 years, upon the attendance at the station of a person being either a relative of, or a person specified under *subsection (2)* by, the person so detained, be released by the said member into the custody of that person, unless the latter person is or the said member is of opinion that he or she is under the age of 18 years, and shall, if not so released, be released at the expiration of the period of detention authorised by *subsection (1)*. 20 25

Procedure at Bureau regarding specimens.

**16.—(1)** As soon as practicable after it has received a specimen forwarded to it under *section 14*, the Bureau shall analyse the specimen and determine the concentration of alcohol or (as may be appropriate) the presence of a drug or drugs in the specimen. 30

(2) Where the Bureau receives 2 specimens of blood so forwarded together in relation to the same person or 2 specimens of urine so forwarded together in relation to the same person, it shall be sufficient compliance with *subsection (1)* for the Bureau to make an analysis of and determination in relation to one of the 2 specimens of blood or (as may be appropriate) one of the 2 specimens of urine. 35

(3) As soon as practicable after compliance with *subsection (1)*, the Bureau shall forward to the Garda Síochána station from which the specimen analysed was forwarded a completed certificate in the form prescribed for the purpose of this section and shall forward a copy of the completed certificate to the person who is named on the relevant form under *section 14* as the person from whom the specimen was taken or who provided it. 40 45

(4) In a prosecution for an offence under this Chapter or under *section 4* or *5*, it shall be presumed until the contrary is shown that *subsections (1) to (3)* have been complied with.

CHAPTER 5

*Evidential matters, etc.*

5 17.—(1) On the hearing of a charge for an offence under *section*  
4, 5 or 6 it shall not be necessary to show that the defendant had not  
consumed intoxicating liquor after the time when the offence is  
alleged to have been committed but before the taking or provision  
of a specimen under *subsection (1)(a) or (b) of section 11* or perform  
an impairment test under *section 11(1)(c)*.

Provisions regarding  
certain evidence in  
prosecutions under  
*sections 4, 5 or 6.*

10 (2) Where, on the hearing of a charge for an offence under *section*  
4, 5 or 6 evidence is given by or on behalf of the defendant that,  
after the time when the offence is alleged to have been committed  
but before the taking or provision of a specimen under *section 11* or  
13, he or she had consumed intoxicating liquor, the court shall dis-  
regard the evidence unless satisfied by or on behalf of the  
15 defendant—

(a) that, but for that consumption, the concentration of  
alcohol in the defendant's blood (as specified in a certifi-  
cate under *section 16*) would not have exceeded the con-  
centration of alcohol for the time being standing specified  
20 in *subsection (2) of section 4* or 5, as may be appropriate,  
whether generally or in respect of the class of person of  
which the defendant is a member,

(b) that, but for that consumption, the concentration of  
alcohol in the defendant's urine (as specified in a certifi-  
cate under *section 16*) would not have exceeded the con-  
centration of alcohol for the time being standing specified  
25 in *subsection (3) of section 4* or 5, as may be appropriate,  
whether generally or in respect of the class of person of  
which the defendant is a member, or

(c) that, but for that consumption, the concentration of  
alcohol in the defendant's breath (as specified in a certifi-  
cate under *section 16*) would not have exceeded the con-  
centration of alcohol for the time being standing specified  
30 in *subsection (4) of section 4* or 5, as may be appropriate,  
whether generally or in respect of the class of person of  
35 which the defendant is a member.

(3) (a) A person shall not take or attempt to take any action  
(including consumption of alcohol but excluding a refusal  
or failure to provide a specimen of his or her breath or  
urine or to permit the taking of a specimen of his or her  
blood) with the intention of frustrating a prosecution  
40 under *section 4, 5 or 6*.

(b) A person who contravenes this subsection commits an  
offence and is liable on summary conviction to a fine not  
45 exceeding €5,000 or to imprisonment for a term not  
exceeding 6 months or to both.

(4) Where, on the hearing of a charge for an offence under *section*  
4, 5 or 6, the court is satisfied that any action taken by the defendant  
(including consumption of alcohol but excluding a refusal or failure  
50 to provide a specimen of his or her breath or urine or to permit the  
taking of a specimen of his or her blood) was so taken with the  
intention of frustrating a prosecution under either of those sections,

the court may find that he or she has committed an offence under *subsection (3)*.

Written statement by member of Garda Síochána in respect of requirement under *section 11(1)*.

**18.—(1)** In any proceedings against a person for an offence under *section 4, 5 or 6*, a written statement by a member of the Garda Síochána in respect of the making of a requirement under *section 11(1)* or carrying out a procedure under that subsection or both shall, if the conditions mentioned *subsection (2)* are satisfied, until the contrary is shown, be sufficient evidence of the facts stated in it, without proof of any signature on it or that the signatory was the proper person to sign it, and shall, until the contrary is shown, be sufficient evidence of compliance by the member with the requirements imposed on him or her under *section 11(1)*. 5 10

(2) The conditions referred to in *subsection (1)* are—

(a) the statement purports to be signed by the member of the Garda Síochána who made it, 15

(b) the statement contains a declaration by that member of the Garda Síochána to the effect that it is true to the best of his or her knowledge and belief and that he or she made the statement, and

(c) a copy of the statement is served on the accused. 20

(3) A copy of a statement required by this section to be served on a person may, be served—

(a) by delivering it to him or her,

(b) by addressing it to him or her and leaving it at his or her usual or last known residence or place of business, or 25

(c) by sending it by registered post to him or her at his or her usual or last known residence or place of business.

Provisions regarding certain evidence in proceedings under *Part 2*.

**19.—(1)** A duly completed statement purporting to have been supplied under *section 12* shall, until the contrary is shown, be sufficient evidence in any proceedings under the *Road Traffic Acts 1961 to 2009* of the facts stated in it, without proof of any signature on it or that the signatory was the proper person to sign it, and shall, until the contrary is shown, be sufficient evidence of compliance by the member of the Garda Síochána concerned with the requirements imposed on him or her by or under *Chapter 4* prior to and in connection with the supply by him or her under *section 12* of such statement. 30 35

(2) A duly completed form under *section 14* shall, until the contrary is shown, be sufficient evidence in any proceedings under the *Road Traffic Acts 1961 to 2009* of the facts stated in it, without proof of any signature on it or that the signatory was the proper person to sign it, and shall, until the contrary is shown, be sufficient evidence of compliance by the designated doctor or designated nurse concerned with the requirements imposed on him or her by or under *Chapter 4*. 40

(3) A certificate expressed to have been issued under *section 16* shall, until the contrary is shown, be sufficient evidence in any proceedings under the *Road Traffic Acts 1961 to 2009* of the facts stated in it, without proof of any signature on it or that the signatory was the proper person to sign it, and shall, until the contrary is shown, 45



be sufficient evidence of compliance by the Bureau with the requirements imposed on it by or under *Chapter 4*.

(4) In a prosecution for an offence under *section 4, 5, 6, 11 or 13* it shall be presumed until the contrary is shown that each of the following persons is a designated doctor or designated nurse—

- (a) a person who by virtue of powers conferred on him or her by *Chapter 4* took from another person a specimen of that other person's blood or was provided by another person with a specimen of that other person's urine,
- (b) a person for whom, following a requirement under *section 11(1) or 13(1)* to permit the taking by him or her of a specimen of blood, there was a refusal or failure to give such permission or to comply with a requirement of his or hers in relation to the taking of such a specimen,
- (c) a person for whom, following a requirement under *section 11(1) or 13(1)* to provide for him or her of a specimen of urine, there was a refusal or failure to provide such a specimen or to comply with a requirement of his or hers in relation to the provision of such a specimen.

(5) Where, under *section 11 or 13*, a designated doctor or designated nurse states in writing that he or she is unwilling, on medical grounds, to take from a person a specimen of his or her blood or be provided by him or her with a specimen of his or her urine, the statement signed by the doctor shall, in any proceedings under the *Road Traffic Acts 1961 to 2009*, be sufficient evidence, until the contrary is shown, of the facts stated in it, without proof of any signature on it or that the signatory was the proper person to sign it.

**20.**—(1) Where a person is convicted of an offence under *section 4, 5, 6, 11 or 13*, committed after the commencement of this section, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the court a contribution towards the costs and expenses incurred by the Bureau in the performance of its functions not exceeding such amount as may, for the time being, stand prescribed.

Costs of prosecutions under Part 2.

(2) Payments under *subsection (1)* shall be disposed of in such manner as may be prescribed.

**21.**—(1) In a prosecution of a person for an offence under *section 11* for refusing or failing to comply with a requirement to provide 2 specimens of his or her breath, it shall be a defence for the defendant to satisfy the court that there was a special and substantial reason for his or her refusal or failure and that, as soon as practicable after the refusal or failure concerned, he or she complied (or offered, but was not called upon, to comply) with a requirement under the section concerned in relation to the taking of a specimen of blood or the provision of a specimen of urine.

Defence to refusal to permit taking of specimen of blood or to provide 2 specimens of breath.

(2) In a prosecution of a person for an offence under *section 11 or 13* for refusing or failing to comply with a requirement to permit a designated doctor or designated nurse to take a specimen of blood or for refusing or failing to comply with a requirement of a designated doctor or designated nurse in relation to the taking of a specimen of blood it shall be a defence for the defendant to satisfy the court that there was a special and substantial reason for his or her

refusal or failure and that, as soon as practicable after the refusal or failure concerned, he or she complied (or offered, but was not called upon, to comply) with a requirement under the section concerned in relation to the provision of a specimen of urine.

(3) Notwithstanding *subsections (1) and (2)*, evidence may be given at the hearing of a charge of an offence under *section 4, 5 or 6* that the defendant refused or failed to comply with a requirement to provide 2 specimens of his or her breath, or that the defendant refused or failed to comply with a requirement to permit the taking of a specimen of his or her blood or to comply with a requirement of a designated doctor in relation to the taking of a specimen of blood, as the case may be.

(4) In a prosecution for an offence under *section 11(4)* for refusing or failing to perform a test, it is a defence for the defendant to satisfy the court that there was a special and substantial reason for his or her refusal or failure and that, as soon as practicable after the refusal or failure concerned, he or she complied (or offered, but was not called upon, to comply) with a requirement under the provision concerned in relation to the performance of a test.

(5) Notwithstanding *subsection (4)*, evidence may be given at the hearing of a charge of an offence under *section 4, 5 or 6 of the Road Traffic Act 2009* that the defendant failed to comply with a requirement to perform a test.

Bar to certain  
defence to charges  
under *section 4(1),  
5(1) or 6(1)*.

**22.**—It is not a defence for a person charged with an offence under *section 4(1), 5(1) or 6(1)* to show that, in relation to the facts alleged to constitute the offence, an analysis or determination under this Part has not been carried out or that he or she has not been required under *section 8 or 9* to provide a specimen of his or her breath.

## CHAPTER 6

### *Functions of Bureau* 30

Functions of  
Bureau.

**23.**—(1) The Bureau shall perform the functions assigned to it by or under this Part.

(2) In particular, and without prejudice to the generality of *subsection (1)*, the Bureau shall arrange for—

(a) the receipt and analysis of specimens of blood and urine forwarded to the Bureau under *section 14*, and the issue of reports on such analyses, 35

(b) the determination, in respect of such specimens, of the concentration of alcohol in the blood or urine and of the presence (if any) of a drug or drugs in the blood or urine, 40

(c) the issue of certificates required under *Chapter 4*, to be issued by the Bureau,

(d) the provision of equipment for the taking of such specimens,

(e) the approval of— 45

(i) apparatus for indicating the presence of alcohol, and



- (ii) apparatus for determining the concentration of alcohol,  
in the breath.

5 (3) The Bureau may, from time to time, arrange for research into—

- (a) the physical and mental fitness of drivers of vehicles,
- (b) the medical aspects of road safety,
- 10 (c) the effects of the consumption of intoxicating liquor or the taking of drugs on drivers of vehicles and the methods of measuring such effects, and
- (d) the methods of determining the extent to which alcohol or drugs is or are present in a person's body.

(4) The Bureau may—

- (a) arrange for the supply and testing of—
  - 15 (i) apparatus for indicating the presence of alcohol, and
  - (ii) apparatus for determining the concentration of alcohol,  
in the breath, and
- 20 (b) give such assistance, whether financial or otherwise, as it thinks proper to persons carrying out or intending to carry out research of a kind which the Bureau is authorised to carry out.

25 **24.**—No action or other legal proceeding lie (except in the case of wilful neglect or default) against the Director or any member, officer or employee of the Bureau by reason of, or arising out of, the carrying out of any analysis or determination under *section 16* or this Chapter. Protection of Director, etc., against legal proceedings.

**25.**—The following is substituted for section 39(2) of the Act of 1968: Functions of Director.

30 “(2) The Director shall, subject to this Part and the establishment order, manage the day-to-day business of the Bureau and exercise general supervision in relation to the performance by it of the functions assigned to it by or under this Act or *Part 2* of the *Road Traffic Act 2009*.”.

35 CHAPTER 7

*Fixed penalty notice — drink driving*

40 **26.**—(1) Where a person, who is not a specified person, is alleged to have committed an offence under *section 4(2), (3) or (4)* or *section 5(2), (3) or (4)* and the concentration of alcohol purported to be present in his or her body as stated in accordance with *section 12* or certified in accordance with *section 16*— Fixed penalty notice — drink driving.

- (a) did not exceed—
  - (i) 80 milligrammes of alcohol per 100 millilitres of blood,
  - (ii) 107 milligrammes of alcohol per 100 millilitres of urine, 5
  - (iii) 35 milligrammes of alcohol per 100 millilitres of breath,

or

- (b) exceeded—
  - (i) 80 milligrammes but did not exceed 100 milligrammes 10  
of alcohol per 100 millilitres of blood,
  - (ii) 107 milligrammes but did not exceed 135 milli-  
grammes of alcohol per 100 millilitres of urine, or
  - (iii) 35 milligrammes but did not exceed 44 milligrammes 15  
of alcohol per 100 millilitres of breath,

he or she shall, subject to *subsections (3) and (4)*, be served with a notice (“fixed penalty notice”) in accordance with *subsection (9)* stating that where the charge specified in *subsection (6)* (“fixed charge”) is paid in accordance with this section and the penalty points specified in *subsection (7)(a)(i)* or disqualification specified in *subsection (7)(a)(ii)* for the person holding a driving licence is in consequence applicable, a prosecution in respect of any such offence shall not be initiated against him or her. 20

(2) Where a specified person is alleged to have committed an offence under *section 4(2), (3) or (4)* or *section 5(2), (3) or (4)* and the concentration of alcohol purported to be present in his or her body as stated in accordance with *section 12* or certified in accordance with *section 16* did not exceed— 25

- (a) 80 milligrammes of alcohol per 100 millilitres of blood,
- (b) 107 milligrammes of alcohol per 100 millilitres of urine, or 30
- (c) 35 milligrammes of alcohol per 100 millilitres of breath,

he or she shall, subject to *subsections (3) and (4)*, be served with a notice (“fixed penalty notice”) in accordance with *subsection (9)* stating that where the charge specified in *subsection (6)* (“fixed charge”) is paid in accordance with this section and disqualification specified in *subsection (7)(b)* for the specified person holding a driving licence is in consequence applicable, a prosecution in respect of any such offence shall not be initiated against him or her. 35

(3) A person is not eligible to be served with a fixed penalty notice if he or she is disqualified for holding a driving licence at the time of the commission of the alleged offence. 40

(4) A person who has been served with a fixed penalty notice and has paid the fixed charge, is not eligible to be served with another fixed penalty notice within the period of 5 years from the appropriate

date relating to the endorsement of penalty points on the entry relating to the person or the date of commencement of the disqualification, whichever is applicable, following payment of the fixed charge in accordance with the notice.

5 (5) Penalty points so endorsed on the entry relating to a person (who is not a specified person) shall, in accordance with section 4 of the Act of 2002, remain on the entry for a period of 3 years beginning on the appropriate date and a record shall be kept by the Minister of such endorsement, for the purposes of *subsection (4)*, for a period  
10 of 5 years from the appropriate date.

(6) The fixed charge is—

(a) in the case of a concentration of alcohol referred to in *subsection (1)(a)* or *subsection (2)* — €200, or

15 (b) in the case of a concentration of alcohol referred to in *subsection (1)(b)* — €400,

or such other amount that, for the time being, stands prescribed in lieu of either of those amounts.

(7) Where—

20 (a) a person, who is eligible under *subsection (1)* to be served with a fixed penalty notice, pays the fixed charge and payment is made in accordance with this section and the concentration of alcohol purported to be present in his or her body as stated or certified in accordance with *Part 2*—

25 (i) did not exceed 80 milligrammes of alcohol per 100 millilitres of blood, 3 penalty points shall be endorsed on the entry relating to the person, or

30 (ii) did not exceed 100 milligrammes of alcohol per 100 millilitres of blood, the person shall be disqualified for holding a driving licence for a period of 6 months beginning on the date referred to in *subsection (13)*,

or

35 (b) a specified person, who is eligible under *subsection (2)* to be served with a fixed penalty notice, pays the fixed charge and payment is made in accordance with this section, shall be disqualified for holding a driving licence for a period of 3 months beginning on the date referred to in *subsection (13)*.

40 (8) Where a member of the Garda Síochána alleges that a person has committed an offence referred to in *subsection (1)* or *(2)* and the person under this section is eligible to be served with a fixed penalty notice, the member shall serve or cause to be served in the manner referred to in *section 31(2)*, personally or by post, on that person a fixed penalty notice.

45 (9) A fixed penalty notice—

(a) shall be in the prescribed form,

(b) shall contain details of the manner of payment of a fixed charge, and

- (c) may specify the person to whom and the place where the payment is to be made and whether the payment is to be accompanied by the notice, duly completed.

(10) A fixed penalty notice shall contain a statement to the effect that— 5

- (a) the person on whom it is served is alleged to have committed the offence specified in the notice,
- (b) the concentration of alcohol purported to be present in his or her body is as stated or certified in accordance with *Chapter 2*, 10
- (c) the person is not eligible to pay the fixed charge if he or she is ineligible under this section to be served with a fixed penalty notice,
- (d) the person may, if he or she is eligible under this section to be served with a fixed penalty notice, during a period of 28 days beginning on the day stated on the notice, pay to a member of the Garda Síochána at a specified Garda station or another specified place the fixed charge accompanied by the notice, duly completed, 15
- (e) where a payment of the fixed charge is made within the period specified in *paragraph (d)*, the person (not being a specified person) shall, as the case may be, have 3 penalty points endorsed on the entry relating to the person in the circumstances referred to in *subsection (7)(a)(i)* or be disqualified for holding a driving licence for the appropriate period in the circumstances referred to or referred to in *subsection (7)(a)(ii)* or *(7)(b)*, and 20 25
- (f) unless the person is not eligible under this section to pay the fixed charge, a prosecution in respect of the alleged offence will not be initiated during the period specified in *paragraph (d)* or, if payment of the fixed charge accompanied by the notice, duly completed, is made during that period, at all. 30

(11) A person who is ineligible under *subsection (3)* or *(4)* to pay the fixed charge, and who knows or should in the circumstances have reasonably known that he or she is so ineligible, who pays or attempts to pay the charge commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 1 month, or both. 35

(12) (a) Where the fixed charge is paid in accordance with this section, a receipt for it shall be issued by the Garda Síochána to the person who has paid the charge. 40

- (b) Subject to *paragraph (c)*, the payment of the fixed charge received by the Garda Síochána in accordance with this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs and shall not be recoverable by the person who made it. 45

- (c) Where a person who is ineligible under *subsection (3)* or *(4)* to pay the fixed charge pays the charge, the Garda Síochána may return the payment to the person. 50

5 (13) Where a payment is received under *subsection (12)*, the Commissioner shall, as soon as may be after the payment, cause the Minister to be notified of the payment and thereupon the Minister shall cause the number of penalty points or period of the disqualification referred to in *subsection (7)*, as the case may be, to be endorsed on the entry in the licence record relating to the person.

10 (14) Where an endorsement which is a disqualification is made under *subsection (13)*, the Minister shall cause a notice to be issued to the person concerned informing him or her that the date for the commencement of the period of the disqualification is 14 days after the date of that notice or where penalty points are to be endorsed, that 3 points has been endorsed on the entry relating to the person and will remain, subject to section 3(2) of the Act of 2002, on the entry for a period of 3 years beginning on the appropriate date.

15 (15) A notice issued under *subsection (14)* relating to a disqualification shall direct the person concerned to submit the driving licence held by him or her to—

(a) the licensing authority that granted the licence, in the case of an Irish driving licence, or

20 (b) to such place as specified in the notice, in the case of a foreign driving licence,

within 14 days of the date of the notice.

25 (16) A person who does not comply with a direction under *subsection (15)* commits an offence and is liable on summary conviction to a fine not exceeding €2,000.

(17) In a prosecution of an offence referred to in *subsection (1)* or *(2)* it shall be presumed until the contrary is shown that—

(a) the relevant fixed penalty notice has been served or caused to be served, and

30 (b) a payment under the relevant fixed penalty notice, accompanied by the notice, duly completed, has not been made.

35 (18) (a) The Minister for Justice, Equality and Law Reform may by an agreement in writing entered into with any person, upon such terms and conditions as may be specified in the agreement, provide for the performance by that person, of any of the functions of a member of the Garda Síochána relating to the issuing of a fixed penalty notice, the receipt of such notice, the acceptance of a payment or the issuing of a receipt of such payment, as are set out in this section or of the function of the Commissioner in respect of the issue of a notice under *subsection (8)*.

45 (b) An agreement referred to in *paragraph (a)* may apply to the performance of all or any of the functions to which that paragraph refers in respect of all or selected offences in respect of which this section applies.

(c) Section 14(2), (3) and (4) of the Act of 2002 applies to any agreement entered into by the Minister for Justice, Equality and Law Reform under *paragraph (a)*.

(19) In this section, reference to a fixed penalty notice, duly completed, is reference to such a notice on which the number, the date of the grant, and the period of validity, of the driving licence of the person to whom the notice relates, as required in the notice, have been inserted by or on behalf of the person.

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(20) In this section “driving licence” includes a learner permit.

## CHAPTER 8

### *Transitional measures*

Written statement by member of Garda Síochána in respect of requirement under section 13(1) of Act of 1994.

**27.**—(1) In any proceedings against a person for an offence under section 49 or 50 of the Principal Act, a written statement by a member of the Garda Síochána in respect of the making of a requirement under section 13(1) (inserted by section 1 of the Road Traffic and Transport Act 2006) of the Act of 1994 or carrying out a procedure under that subsection or both shall, if the conditions mentioned in *subsection (2)* are satisfied, until the contrary is shown be admissible in evidence of the facts stated in it, without proof of any signature on it or that the signatory was the proper person to sign it, and shall, until the contrary is shown, be sufficient evidence of compliance by the member with the requirements imposed on him or her under section 13(1) of the Act of 1994.

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(2) The conditions referred to in *subsection (1)* are—

(a) the statement purports to be signed by the member of the Garda Síochána who made it,

(b) the statement contains a declaration by that member of the Garda Síochána to the effect that it is true to the best of his or her knowledge and belief and that he or she made the statement, and

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(c) a copy of the statement is served on the accused.

(3) A copy of a statement required by this section to be served on a person may be served—

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(a) by delivering it to him or her,

(b) by addressing it to him or her and leaving it at his or her usual or last known residence or place of business, or

(c) by sending it by registered post to him or her at his or her usual or last known residence or place of business.

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Amendment of section 5 of Act of 2006 — fixed disqualification notice.

**28.**—(1) Section 5 of the Act of 2006 is amended by substituting—

(a) for subsections (2) and (3) the following:

“(2) A person is not eligible to be served with a fixed disqualification notice if he or she is disqualified for holding a driving licence at the time of the commission of the alleged offence.

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(3) A person who has been served with a fixed disqualification notice and has paid the fixed charge is not eligible to be served with another such notice within the period of

5 years from the date of commencement of the disqualification following payment of the fixed charge in accordance with the notice.”,

and

5 (b) for subsection (7) the following:

“(7) A fixed disqualification notice—

(a) shall be in the prescribed form,

(b) shall contain details of the manner of payment of a fixed charge, and

10 (c) may specify the person to whom and the place where the payment is to be made and whether the payment is to be accompanied by the notice, duly completed.

15 (7A) A fixed disqualification notice shall contain a statement to the effect that—

(a) the person on whom it is served is alleged to have committed the offence specified in the notice,

20 (b) the concentration of alcohol purported to be present in his or her body is as stated or certified in accordance with Part 3 of the Act of 1994,

25 (c) the person is not eligible to pay the fixed charge if he or she is ineligible under this section to be served with a fixed disqualification notice,

30 (d) the person may, if he or she is eligible under this section to be served with a fixed disqualification notice, during a period of 28 days beginning on the day stated on the notice, pay to a member of the Garda Síochána at a specified Garda station or another specified place the fixed charge accompanied by the notice, duly completed,

35 (e) where a payment of the fixed charge is made within the period specified in paragraph (d), the person shall be disqualified for holding a driving licence for the period referred to in subsection (5), and

40 (f) unless the person is not eligible under this section to pay the fixed charge, a prosecution in respect of the alleged offence will not be initiated during the period specified in paragraph (d) or, if payment of the fixed charge accompanied by the notice, duly completed, is made during that period, at all.”.

(2) Section 5 of the Act of 2006 and this section stand repealed on the commencement of *section 26*.

(3) The repeal of section 5 of the Act of 2006 by *subsection (2)* does not effect the service under that section of a fixed disqualification notice on a person after its repeal.

## CHAPTER 9

### *Repeals (Part 2)* 5

Repeals — *Part 2.*

**29.**—The following are repealed:

- (a) sections 49, 50 and 51 of the Principal Act,
- (b) sections 38, 42 and 48 of the Act of 1968,
- (c) Parts II (sections 5 to 8) and III (sections 9 to 24) of the Act of 1994, 10
- (d) the Road Traffic Act 2003,
- (e) section 4 of the Act of 2006,
- (f) section 1 of the Road Traffic and Transport Act 2006, and
- (g) the matter at reference numbers 9 and 10 of Part 1 of the Table to the Act of 2006. 15

## PART 3

### FIXED CHARGE OFFENCES AND NOTICE

Fixed charge offences.

**30.**—This Part applies to—

- (a) such summary offences under the *Road Traffic Acts 1961 to 2009*, and the *Roads Acts 1993 to 2007*, as may be declared by the Minister by regulations, made after consultation with the Minister for Justice, Equality and Law Reform, to be fixed charge offences, 20
- (b) such offences under—
  - (i) the Road Transport Act 1933 (including any Act construed as one with it) which may not be tried on indictment, or 25
  - (ii) any regulation made under the *European Communities Act 1972* providing for the carriage of merchandise by road or the carriage of passengers by road or the issuing of transport discs, 30
- (c) an offence under section 34 or 39 of the *Taxi Regulation Act 2003* in respect of such contraventions of regulations made under those sections, as may be declared by the Minister by regulations to be fixed charge offences, 35
- (d) an offence under Regulation 4 of the *European Communities (Installation and Use of Speed Limitation Devices in Motor Vehicles) Regulations 2005* (S.I. No. 831 of 2005),
- (e) an offence under Regulation 5, 6, 7, 8 or 9 of the *European Communities (Compulsory Use of Safety Belts and Child* 40



Restraint Systems in Motor Vehicles) Regulations 2006  
(S.I. No. 240 of 2006), and

(f) an offence under section 73 of the Finance Act 1976,

5 and an offence standing so declared under *paragraph (a) or (b)* and each of the offences referred to in *paragraphs (c), (d), (e) and (f)* are referred to in this Part as a fixed charge offence.

31.—(1) Where a member of the Garda Síochána has reasonable grounds for believing that a fixed charge offence is being or has been committed by a person and he or she decides that a prosecution in  
10 respect of the alleged offence is warranted, then before the institution of any prosecution—

(a) if the member identifies the person, the member shall serve, or cause to be served, personally or by post, on the person a fixed charge notice,

15 (b) if the member does not identify the person and the offence involves the use of a mechanically propelled vehicle, the member shall serve, or cause to be served, personally or by post, on the registered owner of the vehicle a fixed charge notice.

20 (2) Where a fixed charge notice is being served on a person under *subsection (1)(a)* or a registered owner under *subsection (1)(b)* or *subsection (6)*, it may be served—

(a) in the case of personal service, by—

(i) delivering it to the person or registered owner, or

25 (ii) leaving it at the address at which—

(I) in the case of a person—

(A) he or she ordinarily resides,

30 (B) at the time of the alleged offence, he or she gave to the member referred to in *subsection (1)*, or

(C) where he or she is the registered owner of the vehicle at the time of the alleged offence, the vehicle is registered,

or

35 (II) in the case of a registered owner, the vehicle is registered at the time of the alleged offence,

or

(b) in the case of postal service, by—

40 (i) in respect of a person, posting it to the address at which—

(I) he or she ordinarily resides,

- (II) at the time of the alleged offence, he or she gave to the member referred to in *subsection (1)*, or
  - (III) where he or she is the registered owner of the vehicle at the time of the alleged offence, the vehicle is registered, 5
- or
- (ii) in respect of a registered owner, posting it to the address at which the vehicle is registered at the time of the alleged offence.
- (3) In a case referred to in *subsection (1)*, if the offence concerned 10  
is not a penalty point offence—
- (a) the references in that subsection to a member of the Garda Síochána shall be construed as including references to a traffic warden, and
  - (b) *paragraph (b)* of that subsection shall be read as if “or 15  
shall affix such a notice to the vehicle” were inserted after “fixed charge notice”.
- (4) In a case referred to in *subsection (1)*, if the offence is an offence referred to in *section 30(b)*, the references in *subsection (1)* (other than *paragraph (b)*) to a member of the Garda Síochána are 20  
to be read as including references, as the case may be, to—
- (a) a transport officer (within the meaning of section 15 of the Road Transport Act 1986), or
  - (b) an authorised person appointed under section 49 of the 25  
Taxi Regulation Act 2003.
- (5) Where—
- (a) a fixed charge notice is served on the registered owner of a mechanically propelled vehicle or affixed to such a vehicle, and
  - (b) the registered owner of the vehicle was not driving or 30  
otherwise using the vehicle, at the time of the commission of the alleged offence to which the notice relates, the registered owner shall—
    - (i) not later than 28 days after the date of the notice, give or send to a member of the Garda Síochána or a 35  
traffic warden at the Garda Síochána station or other place specified in the notice a document in the prescribed form signed by the registered owner and stating the name and address of the person who was driving or otherwise using the vehicle at the time of 40  
such commission, and
    - (ii) give or send to a member of the Garda Síochána or a traffic warden within such period as may be specified by the member or warden at the Garda Síochána station or other place specified in the notice such 45  
other information within his or her knowledge or procurement as the member or warden may reasonably request for the purpose of identifying, and

establishing the whereabouts of, the person referred to in *subparagraph (i)*.

5 (6) The Commissioner shall, not later than 28 days after a document referred to in *subsection (5)* containing the name and address of the person who was driving or otherwise using the vehicle concerned at the time of the commission of the alleged offence concerned is given or sent to a member of the Garda Síochána or a traffic warden, cause a notice under this section to be served, personally or by post, on the person.

10 **32.—(1)** A fixed charge notice—

Fixed charge notice  
— form.

(a) shall be in the prescribed form,

(b) shall contain details of the manner of payment of a fixed charge,

15 (c) may specify the person to whom and the place where the payment is to be made and whether the payment is to be accompanied by the notice, duly completed, and

20 (d) if it relates to a penalty point offence shall contain a statement to the effect that, if the person on whom it is served makes a payment specified in *paragraph (b)* or *(c)* of *subsection (2)* or, as the case may be, *subsection (3)* in accordance with those provisions or is convicted of that offence, different specified numbers of penalty points (within that meaning) will be endorsed on the entry (within that meaning) of the person.

25 (2) If a notice is served under *section 31(1)(a)* or *(6)*, it shall, without prejudice to the generality of *subsection (1)*, contain a statement to the effect that—

(a) the person on whom it is served is alleged to have committed an offence specified in the notice,

30 (b) the person may, during the period of 28 days beginning on the date of the notice, make a payment of a fixed charge of a prescribed amount as specified in the notice,

35 (c) if the person does not make the payment specified in *paragraph (b)* of this subsection, during the period of 28 days beginning on the expiration of that period, the person may make a payment of a fixed charge as specified in the notice of an amount 50 per cent greater than the prescribed amount referred to in *paragraph (b)*, and

40 (d) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice or, if a payment so specified in accordance with the notice is made during the appropriate period so specified in relation to the payment, at all.

45 (3) If a notice is served or affixed to a mechanically propelled vehicle under *section 31(1)(b)*, it shall, without prejudice to the generality of *subsection (1)*, contain a statement to the effect that—

(a) an offence specified in the notice is alleged to have been committed,

- (b) a person liable to be prosecuted for the offence may, during the period of 28 days beginning on the date of the notice, make a payment of a fixed charge of a prescribed amount,
- (c) if the person does not make the payment specified in *paragraph (b)* during the period so specified the person may, during the period of 28 days beginning on the expiration of the period specified in that paragraph, make a payment of a fixed charge of an amount 50 per cent greater than the prescribed amount referred to in *paragraph (b)*,
- (d) if the registered owner of the vehicle concerned was not driving or otherwise using the vehicle at the time of the commission of the alleged offence concerned, he or she is required by *section 31(5)*—
- (i) not later than 28 days after the date of the notice, to give or send to a member of the Garda Síochána or a traffic warden at a specified Garda Síochána station or at another specified place a document in the prescribed form signed by the registered owner and stating the name and address of the person who was driving or otherwise using the vehicle at the time of such commission, and
- (ii) to give or send to a member of the Garda Síochána or a traffic warden within such period as may be specified by him or her at a specified Garda Síochána station or another specified place such other information within his or her knowledge or procurement as the member or warden may reasonably request for the purpose of identifying, and establishing the whereabouts of, the person referred to in *subparagraph (i)*,
- (e) a prosecution in respect of the alleged offence will not be initiated during the periods specified in the notice under *paragraphs (b)* and *(c)* or, if a payment specified in the notice is made in accordance with the notice, during the appropriate period so specified in relation to the payment, at all,
- (f) if a payment aforesaid accompanied by the notice, duly completed, is made during the appropriate period aforesaid, the registered owner need not comply with *section 31(5)*,
- (g) if the registered owner complies with *section 31(5)*, a payment aforesaid need not be made by the registered owner and a prosecution of him or her in respect of the alleged offence will not be initiated, and
- (h) subject to *paragraph (f)*, failure to comply with *section 31(5)* is an offence upon summary conviction of which the registered owner is liable to a fine not exceeding €1,000.
- (4) If a notice is served under *section 40(1)* it shall, without prejudice to the generality of *subsection (1)*, contain a statement to the effect that—

- (a) the person on whom it is served is alleged to have committed an offence specified in the summons served with the notice,
- 5 (b) the person may, not later than 7 days before the date specified in the summons on which the charge is to be heard by the court, make a payment of a fixed charge of an amount stated in the notice served with the summons in the manner as specified in the notice,
- 10 (c) if the person pays the fixed charge no proceedings in respect of the alleged offence will be continued and the person need not attend the court on the day specified in the summons.

**33.—(1)** Where a notice is served or affixed under *section 31(1)* or served under *section 31(6)*— Payment of fixed charge.

- 15 (a) a person or the person to whom the notice applies may, during the period specified in the notice and in accordance with the notice, make a payment specified in the notice,
- (b) the payment—
  - 20 (i) may be received in accordance with the notice and the person receiving the payment may issue a receipt for it, and
  - (ii) shall be paid into or disposed of for the benefit of the Exchequer as the Minister for Finance directs,
- 25 and shall not be recoverable by the person who made it,
- (c) a prosecution in respect of the alleged offence to which the notice relates shall not be instituted during the period specified in the notice or, if a payment so specified is made during the period so specified in accordance with the notice, in relation to the payment, at all,
- 30 (d) in case the notice is served or affixed under *section 31(1)(b)* and a payment aforesaid in accordance with the notice is so made, the registered owner need not comply with *section 31(5)*, and
- 35 (e) if the registered owner complies with *section 31(5)*, the payment aforesaid need not be made by the registered owner and a prosecution of the registered owner in respect of that alleged offence shall not be initiated.

40 (2) The payment of a fixed charge shall not be accepted after the expiration of the period in respect of payment of the fixed charge as specified in the fixed charge notice beginning on the date that the notice was served or affixed under *section 31(1)* or served under *section 31(6)*, as the case may be.

**34.—(1)** In a prosecution for a fixed charge offence it shall be presumed, until the contrary is shown, that— Presumptions.

- (a) the relevant fixed charge notice—

- (i) if being served personally or affixed to a vehicle, has been so served or affixed, or
- (ii) if being served by post, has been so served where there is proof of posting or delivery of the notice,

and 5

- (b) that a payment under the relevant fixed charge notice, accompanied by the notice, duly completed (unless the notice provides for payment without the notice accompanying the payment), has not been made.

(2) In any proceedings in respect of a fixed charge offence a document purporting to be a certificate or receipt of posting or delivery issued by An Post or another postal service is admissible in evidence as proof of the posting or delivery, as the case may be, of a fixed charge notice, until the contrary is shown. 10

(3) Where, in a case to which *section 31(1)(b)* applies, the registered owner of the mechanically propelled vehicle concerned does not give or send in accordance with *section 31(5)* the information specified in *paragraph (b)* of that subsection, then— 15

- (a) in a prosecution of that owner for the alleged offence which is not a penalty point offence to which the notice under *section 31(1)(b)* relates, it shall be presumed, until the contrary is shown, that he or she was driving or otherwise using the vehicle at the time of the commission of the alleged offence, or 20

- (b) in a prosecution of that owner or another person for the alleged offence which is a penalty point offence to which the notice under *section 31(1)(b)* relates, it shall be presumed, until the contrary is shown, that— 25

- (i) where the registered owner is an individual, he or she was driving or otherwise using the vehicle, or 30

- (ii) where the registered owner is a body corporate or unincorporated body of persons or has hired out under a hire-drive agreement or leased the vehicle—

- (I) the person permitted under an approved policy of insurance or under an agreement, as the case may be, to drive the vehicle was driving or otherwise using the vehicle, or 35

- (II) in the event of being unable to ascertain the identity of that person, the registered owner is deemed to have been driving or otherwise using the vehicle, 40

at the time of the commission of the alleged offence.

(4) A member of the Garda Síochána may for the purposes of *subsection (3)(b)* request information or cause to be requested by notice served or caused to be served in the manner specified in *section 31(2)* (including the production for inspection to the member of an approved policy of insurance or an agreement to drive the vehicle, relating to the vehicle concerned) from the registered owner of the vehicle concerned and if the registered owner fails, not later than 28 days after the date of the notice, to give the information or 50

gives information which is false or misleading, the registered owner commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

5       **35.**—(1) The Minister may make regulations requiring information to be given to the Minister, a licensing authority or a member of the Garda Síochána for the purposes of *section 34(3)* and generally ascertaining the names and addresses of persons permitted under approved policies of insurance or agreements or otherwise to drive mechanically propelled vehicles. Regulations — information regarding drivers of mechanically propelled vehicles.

10       (2) A person who fails to give information in accordance with regulations made under *subsection (1)* when requested to do so commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

15       **36.**—(1) A notice which is affixed to a mechanically propelled vehicle under *section 31(1)* shall not be removed or interfered with except by a person to whom the notice applies. Offences in relation to fixed charge notices.

(2) A person who contravenes *section 31(5)* (subject to *section 33(1)(e)*) or *subsection (1)* commits an offence and is liable on summary conviction to a fine not exceeding €1,000.

20       (3) It shall be a defence for a person charged with an offence under *subsection (2)* consisting of a contravention of *section 31(5)* for the person to show that the information concerned was not within his or her knowledge or procurement and that he or she had taken all reasonable steps to obtain the information.

25       (4) In a prosecution for an offence under *subsection (2)* consisting of a contravention of *section 31(5)*, it shall be presumed, until the contrary is shown, that the accused person received the fixed charge notice to which the offence relates.

(5) In a prosecution of a person for—

30       (a) the alleged offence to which a fixed charge notice, served on the registered owner of a mechanically propelled vehicle, relates, or

(b) an offence under *subsection (6)*,

35       a document, purporting to be a document under *section 31(5)* stating the name and address of the person who was driving or otherwise using the vehicle at the time of the commission of the alleged offence referred to in *paragraph (a)* and to be signed by that registered owner, given or sent under *paragraph (b)* of that subsection by that owner to a member of the Garda Síochána or a traffic warden shall, until the contrary is shown, be deemed to be such a document and to be so signed and, in case the prosecution is for the offence referred to in *paragraph (a)*, shall be admissible as evidence, until the contrary is shown, of the facts stated in it.

45       (6) A person who, under *section 31(5)*, gives or sends to a member of the Garda Síochána or a traffic warden information (whether or not contained in a document) that is, to his or her knowledge, false or misleading commits an offence and is liable on summary conviction to a fine not exceeding €2,000.



(7) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under *subsection (2)* consisting of a contravention of *section 31(5)* or an offence under *section 34(4)* may be brought at any time within 2 years from the date on which the offence was committed. 5

Regulations —  
fixed charge  
amounts.

**37.**—Regulations may be made prescribing the amount of a fixed charge and may prescribe different amounts in relation to—

- (a) different fixed charge offences,
- (b) fixed charge offences involving different classes of vehicles, or 10
- (c) fixed charge offences committed in different areas.

Traffic wardens.

**38.**—(1) (a) The Minister may authorise in writing such and so many persons as he or she may determine to perform the functions conferred on traffic wardens by this Part. A person so authorised shall, when performing any such function, if so requested, produce to the person who made the request the authorisation of the Minister under this section or a copy of it. 15

(b) The number of persons standing authorised under this subsection and their remuneration and other conditions of service shall be such as may be determined by the Minister with the consent of the Minister for Finance. 20

(c) Neither the Civil Service Commissioners Act 1956 nor the Civil Service Regulation Act 1956 apply to the position of traffic warden. 25

(d) In this subsection, “Minister” means Minister for Justice, Equality and Law Reform.

(2) Where a traffic warden has reasonable grounds for believing that a person is committing or has committed a fixed charge offence, the traffic warden may request of the person his or her name and address and, if the person does not comply with the request or gives a name or address that is false or misleading, he or she commits an offence. 30

Outsourcing.

**39.**—(1) The Minister for Justice, Equality and Law Reform may, by an agreement in writing entered into with a person, upon such terms and conditions as may be specified in the agreement, provide for the performance by that person of— 35

(a) the function of the Commissioner in respect of the serving of a document under *section 31(6)*, or

(b) any of the functions of a member of the Garda Síochána or a traffic warden under this Part other than the functions specified in *section 31(1)*. 40

(2) An agreement referred to in *paragraph (a)* may apply to the performance of all or any of the functions to which that paragraph refers in respect of all or selected offences in respect of which this section applies. 45



(3) Section 14(2), (3) and (4) of the Road Traffic Act 2002 apply to any agreement entered into by the Minister for Justice, Equality and Law Reform under *subsection (1)(a)*.

5 **40.**—(1) A person who is served with a summons in respect of a fixed charge offence may pay a fixed charge of an amount as stated in the fixed charge notice served with the summons on the person in respect of the fixed charge offence and in the manner as specified in the notice not later than 7 days before the date specified in the summons on which the charge is to be heard by the court. If the person  
10 pays the fixed charge in the manner as specified in the notice within that period proceedings in respect of the alleged offence will be discontinued and the person need not attend the court on the day specified in the summons.

Payment of fixed charge on service of summons.

15 (2) A fixed charge notice served under *subsection (1)* may be served by the Courts Service.

(3) The fixed charge amount stated in the notice served with a summons on the person under *subsection (1)* shall be an amount 100 per cent greater than the prescribed amount stated in the fixed charge notice served on the person, in accordance with *section 31*, in  
20 respect of the fixed charge offence.

(4) A payment under *subsection (1)*—

(a) may be received only within the period referred to in *subsection (1)* and in accordance with the fixed charge notice, and

25 (b) is not recoverable by the persons paying it.

(5) The person receiving a payment under *subsection (1)* may issue a receipt for it.

(6) Any sums received under *subsection (1)* shall be paid into or disposed of for the benefit of the Exchequer in such manner as the  
30 Minister for Finance directs.

(7) Where a person is served with a summons in respect of a fixed charge offence, evidence given by the person that he or she was not served with a fixed charge notice in accordance with *section 31* in respect of the alleged offence is not a defence to the alleged offence.

35 (8) In this section “summons” means a summons issued under—

(a) section 10 of the Petty Sessions (Ireland) Act 1851, or

(b) the Courts (No. 3) Act 1986.

40 **41.**—Where an offence under *section 34*, *35* or *36(2)* (in respect of contravention of *section 33(1)(e)* of this Act) or *section 3(7)(h)* (inserted by *section 23(c)* of the Act of 2004) of the Act of 1975 is committed by a body corporate or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons and it is proved to have been so committed with the consent or connivance of or to be attributable to any wilful neglect on  
45 the part of any other person who, when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer (including a member of any committee of management or other controlling authority) of such body, such other person as well

Offence by body corporate.

as the body, or the person so purporting to act on behalf of the body, commits an offence and is liable to be proceeded against and punished as if he or she committed the first-mentioned offence.

Interpretation.

**42.—(1)** In this Part—

“fixed charge” means the amount of a fixed charge prescribed under *section 37*; 5

“fixed charge offence” means an offence declared under or referred to in *section 30*;

“fixed charge notice” means a notice served under *section 31* or *40(1)*; 10

“penalty point offence” has the meaning assigned to it by section 1(1) of the Act of 2002;

“traffic warden” means a person standing authorised under *section 38(1)*.

(2) In this Part, references to a fixed charge notice under this section, duly completed, are references to such a notice on which the number, the date of the grant, and the period of validity of the driving licence of the person to whom the notice relates have been inserted by or on behalf of the person. 15

(3) A reference to a notice under section 103 (inserted by section 11 of the Act of 2002) of the Principal Act served on a person after the commencement of *section 31* is to be read as a reference to a notice under this Part. 20

Repeals — *Part 3*.

**43.—**The following are repealed:

(a) section 103 of the Principal Act, 25

(b) section 11 of the Act of 2002,

(c) sections 18, 19 and 20 of the Act of 2004, and

(d) section 14 of the Act of 2006.

## PART 4

### PENALTY POINTS 30

Penalty points —  
endorsement of  
points.

**44.—(1)** Section 1(1) of the Act of 2002 is amended by substituting for the definitions of “entry”, “licence” and “licence record” the following:

“ ‘entry’ in relation to a person, means—

(a) the entry in the licence record relating to the person, 35  
or

(b) where—

(i) a licence record relating to the person—

(I) does not exist as he or she is not the holder of an Irish licence, or

(II) exists but is not identified for the purpose of endorsing particular points, or

5 (ii) the person is the holder of a foreign driving licence,

the entry in such record kept or created in respect of that person under section 1A;

10 ‘Irish licence’ means an Irish driving licence or a learner permit granted under Part III of the Principal Act;

‘licence’ means an Irish licence or a foreign driving licence, as the case may be;

15 ‘licence record’ means the record jointly established and maintained by the Minister and all the licensing authorities under section 60(2) of the Finance Act 1993, in relation to Irish licences;”.

(2) The following section is inserted after section 1 of the Act of 2002:

20 “Records — 1A.—The Minister may decide by regulations the form of record to be kept or created in respect of a person—  
foreign driving licence holders and unlicensed drivers.

(a) who is not the holder of a licence,

25 (b) where a licence record exists relating to the person but is not identified for the purposes of endorsing particular points, or

(c) who is the holder of a foreign driving licence and who—

30 (i) makes a payment under *section 33 or 40 of the Road Traffic Act 2009* in respect of an alleged penalty point offence referred to in *section 2(1)(a)*, or

35 (ii) is convicted of a penalty point offence,

for the purposes of endorsing penalty points under section 2 on the entry relating to the holder.”.

(3) Section 2 of the Act of 2002 is amended by—

40 (a) in subsection (1), substituting “under *section 33 or 40 of the Road Traffic Act 2009*” for “under section 103 (as inserted by this Act) of the Principal Act”, and

(b) substituting for subsection (7) the following:

45 “(7) Where such an entry is made and subsequent to the making of the entry a pre-existing entry is identified by a licensing authority or by the Minister relating to the

same person, any points endorsed on the first mentioned entry shall, during their period of endorsement under section 4, be associated with the pre-existing entry and the person notified accordingly. Any points so associated with an existing entry may, at the discretion of the Minister, have effect from the date recorded in the original entry and where the number of points equals or exceeds 12 that person stands disqualified under section 3 for holding a licence.”.

(4) The following section is substituted for section 6 of the Act of 2002:

“6.—Where, during the period of 3 years for which penalty points stand endorsed on the entry of a person or the period of 6 months for which a person stands disqualified under section 3 for holding a licence, the person becomes disqualified under Part III of the Principal Act or section 9 for holding a licence, no part of the period of the disqualification shall be reckoned as part of the 3 years or part of the period of 6 months, and the date of the ending of the two latter periods shall be determined accordingly.”.

Amendment of First Schedule to Act of 2002 — penalty points.

45.—The First Schedule to the Act of 2002 is amended—

(a) in *Part 1*, by substituting for the matter at reference number 9 the following:

“

9	Offence under section 52 of the Road Traffic Act 1961, where the contravention involved the use of a mechanically propelled vehicle, tried summarily	Careless driving	3
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”.

(b) in *Part 2* (as amended by section 16 of the Act of 2006)—

(i) by substituting “reference numbers 4 to 8” for “reference numbers 1 to 8” in paragraph (2), and

(ii) by deleting the matter at reference numbers 1, 2 and 3, and

(c) by substituting for *Part 5* the following:

“PART 5

CONTRAVENTION OF ARTICLE 17 OF ROAD TRAFFIC (LICENSING OF DRIVERS) REGULATIONS 2006 (S.I. No. 537 OF 2006)

In this Part, the reference to Regulation 17 is a reference to Regulation 17 (as amended by Regulation 2(b) of the Road Traffic (Licensing of Learner Drivers) Regulations

2007 (S.I. No. 719 of 2007)) of the Road Traffic (Licensing of Drivers) Regulations 2006 (S.I. No. 537 of 2006).

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15  
20

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
1	Offence under section 42 of the Road Traffic Act 1961 consisting of contravention of Regulation 17(6)(iv)	Holder of learner permit when not accompanied by and under supervision of qualified person where so required	1	3

”  
(d) by inserting after *Part 8* (inserted by section 16(e) of the Act of 2006) the following:

“PART 9

CONTRAVENTION OF CERTAIN PROVISIONS OF THE ROAD TRAFFIC (CONSTRUCTION AND USE OF VEHICLES) REGULATIONS 2003 (S.I. No. 5 OF 2003)

In this Part—

(a) ‘offence’ means an offence under section 11 of the Principal Act,

(b) a reference to a Regulation is a reference to the Road Traffic (Construction and Use of Vehicles) Regulations 2003 (S.I. No. 5 of 2003).

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45  
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55

Reference Number	Offence	General Description of Offence	Penalty Points on Payment of Fixed Charge	Penalty Points on Conviction
(1)	(2)	(3)	(4)	(5)
1	Offence consisting of contravention of Regulation 26 or 27	Using a vehicle which exceeds the maximum permissible width	1	3
2	Offence consisting of contravention of Regulation 28, 29, 30 or 31	Using a vehicle which exceeds the maximum permissible length	1	3
3	Offence consisting of contravention of Regulation 55	Using a vehicle with defective or worn tyres	2	4

”.

Probation of Offenders Act 1907 not to apply to penalty point offences.

**46.**—Section 1(1) of the Probation of Offenders Act 1907 does not apply to a penalty point offence (within the meaning of section 1(1) of the Act of 2002).

## PART 5

### DRIVING LICENCE

5

Definitions — driving licence.

**47.**—Section 3(1) of the Principal Act is amended by—

(a) substituting for the definition of “driving licence” the following:

“ ‘driving licence’ means—

(a) an Irish driving licence, or 10

(b) a foreign driving licence;”,

(b) inserting after the definition of “footway” the following:

“ ‘foreign driving licence’ means a licence or permit to drive a mechanically propelled vehicle—

(a) in respect of a category of vehicle referred to in the European Communities (Recognition of Driving Licences of Other Member States) Regulations 2008 (S.I. No. 464 of 2008) issued by the competent authority of another Member State or a member state of the European Economic Area, but does not include a licence or permit so issued to a person to enable the person to learn to drive or provisionally to drive a vehicle, or 15 20

(b) recognised by an order made under section 23A(1);”, 25

and

(c) inserting after the definition of “the insured” the following:

“ ‘Irish driving licence’ means a driving licence (within the meaning of section 22(1)) granted by a licensing authority under section 23;”. 30

Matters relating to issue of Irish driving licences and learner permits.

**48.**—(1) The following sections are substituted for sections 21 to 23 of the Principal Act—

“Licensing Authority. 21.—In this Part ‘licensing authority’ means a county council or city council (within the meaning of the Local Government Act 2001). 35

Application for Irish driving licence. 22.—(1) Subject to this Part, a person may apply to a licensing authority for a licence (‘Irish driving licence’) to drive a mechanically propelled vehicle of a specified category. 40

(2) An application for an Irish driving licence—

(a) shall be made—

(i) to the licensing authority in whose functional area the applicant ordinarily resides, and

(ii) in accordance with the regulations made under section 42(2)(c),

(b) shall be accompanied by—

(i) any certificate of competency or fitness required under regulations under this Act, and

(ii) the fee payable on the taking out of such a licence,

and

(c) shall contain the applicant's personal public service number allocated and issued to him or her under section 262(2) of the Social Welfare Consolidation Act 2005.

Disqualification for applying for Irish driving licence or learner permit if disqualified for holding such.

22A.—(1) Where a person is disqualified by this Act for holding any driving licence or learner permit—

(a) whatsoever during a period, he or she shall be disqualified for applying for any Irish driving licence or learner permit whatsoever, or

(b) in respect of vehicles of a category during a period, he or she shall be disqualified for applying for an Irish driving licence or a learner permit in respect of vehicles of that category,

for that period or any period the whole or part of which is within that period.

(2) Where a person is disqualified for applying for any Irish driving licence or learner permit—

(a) whatsoever for a period, he or she shall not apply for any such licence or permit whatsoever for that period,

(b) in respect of a category of vehicle for a period, he or she shall not apply for such a licence or permit in respect of that category, for that period,

and, if he or she does so and obtains such a licence or permit on the application, it is void and of no effect.

Prohibition on applying for another Irish driving licence or learner permit in respect of a licence or permit already held in respect of vehicle. 22B.—Where a person has been granted an Irish driving licence or a learner permit in respect of vehicles of a category for a period, he or she is disqualified for applying for an Irish driving licence or a learner permit in respect of vehicles of that category for that period or any part of it. 5

Grant of Irish driving licence. 23.—(1) Where an application is duly made for an Irish driving licence, the licensing authority shall grant the licence unless it appears to them—  
(a) that the applicant is disqualified for applying for the licence, or 10  
(b) that, having regard to the particulars contained in the application, the applicant has not a satisfactory knowledge of the Rules of the Road. 15

(2) Subject to this Part and any regulations under it, an Irish driving licence shall be granted for a period of 12 months or such longer period as may be prescribed beginning on—

- (a) in case the licence is granted during a period during which an Irish driving licence previously granted to the applicant remains unexpired — the day following the expiration of the driving licence previously granted, and 20 25  
(b) in any other case — the day on which the licence is granted.”.

(2) Sections 24 and 25 of the Principal Act are repealed.

(3) Section 34(2)(b) of the Principal Act is amended by substituting “Irish driving licence” for “driving licence”. 30

Prohibition on applying for Irish driving licence or learner permit where disqualified.

49.—The following section is substituted for section 39 of the Principal Act:

“39.—(1) A person shall not apply for an Irish driving licence or a learner permit if he or she is disqualified for applying therefor. 35

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both.”.

Member of Garda Síochána may seize licence in certain circumstances.

50.—(1) A member of the Garda Síochána may seize a driving licence or learner permit produced to him or her under section 40 (inserted by section 25 of the Act of 1994 and as amended by section 18 of the Act of 2002 and section 13 of the Act of 2006) of the Principal Act or section 33 of the Act of 2004, where the member has reasonable grounds for believing that— 40 45



- (a) the holder of the licence or permit has been disqualified for holding a driving licence, or
- (b) the driving licence or permit has been fraudulently obtained, is forged or altered or purports to be a driving licence or permit.

(2) A member of the Garda Síochána who has seized a licence or permit under *subsection (1)* may make a copy of it and—

- (a) in the case of an Irish driving licence or learner permit, return it to the licensing authority concerned,
- (b) in the case of a foreign licence, give or send it—
  - (i) where the holder of the licence is resident in the State, to the licensing authority where the holder is resident, or
  - (ii) in any other case, to the issuing authority where the licence is seized or, if the member considers it appropriate, to another licensing authority at the request of the holder,
- (c) where the licence or permit is as referred to in *subsection (1)(b)*, upon the conclusion of any proceedings have it destroyed.

(3) Where a driving licence or learner permit has been seized from a person under *subsection (1)*, the person, as the case may be, shall not continue to drive a mechanically propelled vehicle or accompany the holder of a learner permit while such holder is driving a mechanically propelled vehicle, in a public place.

(4) A person who contravenes *subsection (3)* commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both.

(5) A member of the Garda Síochána may arrest without warrant a person who in the member's opinion is committing or has committed an offence under *subsection (4)*.

(6) A member of the Garda Síochána to whom is produced or who seizes under this section a foreign driving licence which is in a language other than English or Irish may detain the licence for such reasonable period required—

- (a) to have its contents translated into English or Irish, and
- (b) if the member requires it, to have its validity confirmed.

(7) Section 40(1B) (inserted by section 18 of the Act of 2002) of the Principal Act is amended by substituting in paragraph (b) “learner permit” for “provisional licence” in both places it occurs.

(8) Section 33(1) of the Act of 2004 is amended by inserting “or a learner permit” after “driving licence”.

(9) Section 41 (as amended by section 19 of the Act of 2006) of the Act of 1994 is amended by substituting for paragraph (a) the following:

“(a) the person driving the vehicle—

- (i) refuses or fails to produce there and then a driving licence or learner permit then having effect and licensing him or her to drive the vehicle, when production of such a licence is demanded of him or her by a member of the Garda Síochána under section 40(1) of the Principal Act or section 33 of the Road Traffic Act 2004 and the member is of opinion that the person is by reason of his or her age ineligible to hold a driving licence licensing him or her to drive the vehicle, 5
- (ii) has had a driving licence or learner permit seized from him or her under *section 50* of the *Road Traffic Act 2009*, or 15
- (iii) is, in the opinion of a member of the Garda Síochána, disqualified for holding a driving licence or learner permit,”. 10

Production of driving licence to court.

**51.**—Section 22 (inserted by section 21 of the Act of 2004) of the Act of 2002 is amended by substituting for subsection (1) the following: 20

“22.—(1) A person who it is alleged has committed an offence or has been charged with the commission of an offence under the *Road Traffic Acts 1961 to 2009* other than—

- (a) section 84 (inserted by section 15 of the Act of 2002), section 85 (inserted by section 16 of the Act of 2002) or section 101 of the Principal Act, or 25
- (b) section 35 (in so far as it relates to the parking of vehicles), section 36 or section 36A (inserted by section 12 of the Roads Act 2007) of the Act of 1994, 30

and is due to appear before a court to answer the accusation or charge, shall on the first date he or she is due to appear before the court or on a subsequent date at the discretion of the presiding judge—

- (i) produce to the court his or her driving licence or learner permit, and deliver it to the registrar, clerk or other principal officer of the court, and 35
- (ii) provide a copy of that licence or learner permit to the court at that time, which the court shall require and retain for the purposes of establishing and recording the driving licence or learner permit details to which it relates, 40

and the court shall record whether or not the licence and the copy of the licence has been produced.”.

PART 6

DISQUALIFICATION

52.—(1) Section 30 (inserted by section 20 of the Act of 1968) of the Principal Act is amended by substituting for subsection (1) the following: Disqualification for holding driving licence.

“(1) A person in respect of whom a consequential, ancillary or special disqualification order is made stands disqualified in accordance with the order for holding a driving licence, and—

10 (a) an Irish driving licence or learner permit held by him or her at the date of the order stands suspended, correspondingly,

15 (b) where he or she holds a foreign driving licence to which the European Communities (Recognition of Driving Licences of Other Member States) Regulations 2008 (S.I. No. 464 of 2008) apply, those Regulations do not apply to that licence, or

(c) a foreign driving licence (other than a licence referred to in paragraph (b)) held by him or her at the date of the order has no effect in the State.”.

20 (2) Section 3 of the Act of 2002 is amended by substituting for subsection (1) the following:

25 “(1) When penalty points are endorsed on the entry of a person and, in consequence, the total number of penalty points standing so endorsed equals or exceeds 12, the person stands disqualified for a period of 6 months beginning on the appropriate date for holding a licence, and—

(a) an Irish licence held by him or her at the beginning of the period stands suspended correspondingly, or

30 (b) a foreign driving licence held by him or her at the beginning of the period has no effect in the State.”.

53.—(1) The following section is substituted for section 26 (inserted by section 26 of the Act of 1994 as amended by section 6 of the Act of 2006) of the Principal Act: Consequential disqualification orders.

35 “26.—(1) Subject to subsection (5)(b), where a person is convicted of an offence specified in the Second Schedule, the court shall make an order (‘consequential disqualification order’) declaring him or her to be disqualified for holding a driving licence.

40 (2) Subject to subsection (3), a consequential disqualification order operates to disqualify the person to whom the order relates for holding any driving licence whatsoever during a specified period or during a specified period and thereafter until he has produced to the appropriate licensing authority, as may be specified in the order, a certificate of competency or a certificate of fitness or both.

45 (3) A consequential disqualification order resulting from a conviction for an offence under—

- (a) section 52 or 53 tried on indictment where the contravention involved the driving of a mechanically propelled vehicle, or
- (b) section 106, where—
  - (i) the offence involved a contravention of paragraph (a) or (b) of subsection (1) of that section, 5
  - (ii) injury was caused to a person,
  - (iii) a mechanically propelled vehicle was involved in the occurrence of the injury, and
  - (iv) the convicted person was the driver of the vehicle concerned, 10

operates to disqualify the person to whom the order relates for holding any driving licence whatsoever during a specified period and, unless the court is satisfied that a special reason (which it shall specify when making its order) had been proved by the convicted person to exist in his or her particular case such that it should not so operate, thereafter until the person has produced to the appropriate licensing authority, as may be specified in the order, a certificate of competency or both a certificate of competency and a certificate of fitness. 15 20

- (4) (a) The period of disqualification specified in a consequential disqualification order shall, where the person to whom the order relates is convicted of an offence under—
  - (i) *section 4* of the *Road Traffic Act 2009* consisting of a contravention of *subsection (1)* of that section, 25
  - (ii) *section 5(1)* of the *Road Traffic Act 2009*,
  - (iii) section 52 or 53, tried on indictment,
  - (iv) section 106, where the offence involved the matters specified in subparagraphs (i) to (iv) of subsection (3)(b) of this section, 30
  - (v) *section 11* or *13* of the *Road Traffic Act 2009*, or
  - (vi) section 138(3) of the *Railway Safety Act 2005*, tried on indictment, 35

be not less than 4 years in the case of a first offence under the section concerned and not less than 6 years in the case of a second or any subsequent offence under the same section.

- (b) The period of disqualification specified in a consequential disqualification order shall, where the person to whom the order relates is convicted of an offence under *section 4* of the *Road Traffic Act 2009* consisting of a contravention of *subsection (2), (3) or (4)* of that section or an offence under *subsection (2), (3) or (4)* of *section 5* of the *Road Traffic Act 2009*, be— 40 45

- (i) in the case of a first offence under section 4 or 5 of the Act of 2009, as the case may be, not less than the appropriate period specified in column (3) of the Table to this subsection, and
- 5 (ii) in the case of a second or subsequent offence under the same section, not less than the appropriate period specified in column (4) of that Table.
- 10 (c) In paragraph (b) ‘appropriate period’ means the period that is appropriate having regard to—
- (i) the concentration of alcohol in the blood, urine or breath, as the case may be, of the person concerned in relation to which that person was convicted of the offence concerned, and
- 15 (ii) the concentrations of alcohol in blood, urine or breath, as may be appropriate, specified in column (2) of the Table to this subsection.

TABLE

Reference Number	Concentration of alcohol	First offence under the section concerned	Second or any subsequent offence under the same section
(1)	(2)	(3)	(4)
1.	<p>(a) Not exceeding 80 milligrammes of alcohol per 100 millilitres of blood;</p> <p>(b) Not exceeding 107 milligrammes of alcohol per 100 millilitres of urine;</p> <p>(c) Not exceeding 35 microgrammes of alcohol per 100 millilitres of breath.</p>	6 months	1 year
2.	<p>(a) Exceeding 80 milligrammes but not exceeding 100 milligrammes of alcohol per 100 millilitres of blood;</p> <p>(b) Exceeding 107 milligrammes but not exceeding 135 milligrammes of alcohol per 100 millilitres of urine;</p>	1 year	2 years

Reference Number	Concentration of alcohol	First offence under the section concerned	Second or any subsequent offence under the same section
(1)	(2)	(3)	(4)
	(c) Exceeding 35 microgrammes but not exceeding 44 microgrammes of alcohol per 100 millilitres of breath.		
			5
3.	(a) Exceeding 100 milligrammes but not exceeding 150 milligrammes of alcohol per 100 millilitres of blood;		10
	(b) Exceeding 135 milligrammes but not exceeding 200 milligrammes of alcohol per 100 millilitres of urine;		15
	(c) Exceeding 44 microgrammes but not exceeding 66 microgrammes of alcohol per 100 millilitres of breath.		20
		2 years	25
			30
4.	(a) Exceeding 150 milligrammes of alcohol per 100 millilitres of blood;		35
	(b) Exceeding 200 milligrammes of alcohol per 100 millilitres of urine;		40
	(c) Exceeding 66 microgrammes of alcohol per 100 millilitres of breath.		45
		3 years	
			6 years

(5) (a) Subject to paragraph (b), the period of disqualification specified in a consequential disqualification order shall, where the person to whom the order relates is convicted of an offence under section 52 or 53 tried summarily or section 56 be not less than 2 years in the case of a first offence under the section concerned and not less than 4 years in the case of a second or any subsequent offence under the same section committed within the period of 3 years from the date of the commission of the previous offence

or, in the case of more than one such offence, the last such offence.

5 (b) Where a person is convicted of an offence under section 52 tried summarily or section 56, the court may, in the case of a first offence under the section concerned, where it is satisfied that a special reason (which it shall specify when making its order) has been proved by the convicted person to exist in his particular case to justify such a course—

10 (i) decline to make a consequential disqualification order, or

(ii) specify a period of disqualification in the consequential disqualification order of less than 1 year.

15 (6) The period of disqualification specified in a consequential disqualification order shall, in a case not coming within subsection (4) or (5), be not less than 1 year.

20 (7) Where a person is convicted of an offence under section 49 or 50 of this Act or section 13 or 15 of the Road Traffic Act 1994 ('the former section') whether before or after the commencement of *section 4, 5, 11 or 13 of the Road Traffic Act 2009* and is subsequently convicted of one or more offences under any other of those sections ('the latter section') the conviction under the latter section shall, for the purposes of this section, be regarded as a second or, as the case may be, a subsequent conviction for an offence under the latter section.

30 (8) Where a person is convicted of an offence ('the latter conviction') under section 49 or 50 of this Act or section 13 or 15 of the Road Traffic Act 1994 whether before or after the commencement of *section 4, 5, 11 or 13 of the Road Traffic Act 2009*, and

(a) the conviction is, or is by virtue of subsection (7) to be regarded as, a second or subsequent conviction for an offence under the same section, and

35 (b) a period of 4 years or more during which such person was not disqualified for holding a driving licence has elapsed since the previous conviction of the person by reference to which the later conviction is, or is by virtue of subsection (7) to be regarded as, a second or subsequent conviction,

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the court may, for the purposes of this section, deal with the later conviction as a first conviction.

45 (9) Subject to subsections (10) and (11), in every case in which an appeal may be brought in respect of a conviction for an offence on conviction of which a consequential disqualification order may be made, jurisdiction to make, confirm, annul or vary a consequential disqualification order is conferred on the appellate court unless it otherwise has that jurisdiction or the conferring of that jurisdiction is unnecessary because the appeal is by way of rehearing.

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(10) A consequential disqualification order shall not be annulled on appeal unless—

(a) the conviction by reference to which it was imposed is reversed, or

(b) the provisions of subsection (5)(b) apply.

(11) Where a consequential disqualification order is, on an appeal, made or varied, the requirements of subsections (2) to (7) shall be complied with and the provisions of subsection (8), where relevant, shall also apply.” 5

(2) The Principal Act is amended by substituting for the Second Schedule the following:

“Section 26. SECOND SCHEDULE 10

Offences under the *Road Traffic Acts 1961 to 2009* involving Consequential Disqualification Orders.

*Using mechanically propelled vehicle without test certificate.* 15

1. An offence by a person under subsection (2) of section 18, being an offence committed in a period of 3 years in which a previous offence was committed by the person under that subsection for which he or she was convicted. 20

*Driving mechanically propelled vehicle before remedying dangerous defect.*

2. An offence by a person under subsection (10) of section 20, being an offence committed in a period of 3 years in which a previous offence was committed by the person under that subsection for which he was convicted. 25

*Driving mechanically propelled vehicle when unfit.*

3. An offence by a person under section 48, being an offence committed in a period of 3 years in which a previous offence was committed by the person under that section for which he was convicted. 30

*Driving mechanically propelled vehicle while under the influence of intoxicating liquor or drug.* 35

4. An offence under section 4 of the *Road Traffic Act 2009*.

*Being in charge of mechanically propelled vehicle while under the influence of intoxicating liquor or drug.* 40

5. An offence under section 5 of the *Road Traffic Act 2009*.

*Refusal or failure to provide specimen or to comply with requirement of designated doctor or nurse.*

6. An offence under section 11 or 13 of the *Road Traffic Act 2009*. 45



*Careless driving.*

5 7. An offence by a person under section 52, where the contravention involved the driving of a mechanically propelled vehicle, being an offence committed in a period of 3 years in which 2 or more previous offences were committed by the person under that section for which he or she was convicted.

10 *Dangerous driving of mechanically propelled vehicle.*

8. An offence under section 53 where the contravention involved the driving of a mechanically propelled vehicle.

15 *Driving of dangerously defective mechanically propelled vehicle.*

20 9. An offence by a person under section 54, being an offence committed in a period of 3 years in which a previous offence was committed by the person under that section for which he or she was convicted.

*Parking mechanically propelled vehicle in dangerous position.*

25 10. An offence by a person under section 55 where the contravention involved the parking of a mechanically propelled vehicle and where any part of the period of the contravention was a period within lighting-up hours (as specified in the section) during which the vehicle did not fulfil the requirements imposed by law with respect to lighting and reflectors, being an offence committed in a period of 3 years in which a previous offence was committed by the person under that section for which he or she was convicted.

*Use of mechanically propelled vehicle not insured.*

35 11. An offence under section 56.

*Failure to fulfil duties on occurrence of accident.*

40 12. (a) An offence under section 106 where the contravention involved non-compliance with paragraph (a) or (b) of subsection (1) of that section, injury was caused to person, a mechanically propelled vehicle was involved in the occurrence of the injury and the convicted person was the driver of the vehicle concerned.

45 (b) An offence under section 106 (other than an offence to which subparagraph (a) of this paragraph relates) where injury was caused to person, a mechanically propelled vehicle was involved in the occurrence of the injury and the

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convicted person was the driver of the vehicle concerned, being an offence committed in a period of 3 years in which a previous such offence was committed by the person for which he or she was convicted. 5

*Taking mechanically propelled vehicle without authority.*

13. An offence under subsection (2) of section 112. 10

*Driving mechanically propelled vehicle without driving licence while disqualified, etc.*

14. An offence under section 38(2) in the circumstances referred to in subsection (5)(a) of that section. 15

*Using vehicle without certificate of roadworthiness.*

15. An offence by a person under Regulation 19(1) of the European Communities (Vehicle Testing) Regulations 2004 (S.I. No. 771 of 2004), being an offence committed in a period of 3 years in which a previous offence was committed by the person under that Regulation for which he or she was convicted.”. 20

(3) The following are repealed:

- (a) sections 26 and 49(1)(l) of the Act of 1994, 25
- (b) the Road Traffic Act 1995, and
- (c) section 6 of the Act of 2006.

Amendment of section 29 of Principal Act — removal of disqualification and repeal.

**54.**—(1) Section 29 (inserted by section 7 of the Act of 2006) of the Principal Act is amended by substituting for subsection (4) the following: 30

“(4) Where a court considers it to be appropriate the court may—

- (a) confirm the period specified in the order of disqualification, or
- (b) order the removal of the disqualification from a specified date that is such that the disqualification will have effect for a least two-thirds of the period specified in the order of disqualification, or a period of 2 years, whichever is the greater.”. 35

(2) Section 19 of the Act of 1968 is repealed. 40

Amendment of section 9 of Act of 2002 — disqualification under European Convention on driving disqualifications.

**55.**—Section 9 of the Act of 2002 is amended:

- (a) in subsection (9), by inserting “or after the date on which the Convention has become applicable between the State and another Member State, by declaration under Article

15.4 of the Convention, by a person normally resident in that other Member State,” after “(“State of residence”),

(b) in subsection (12)(a), by—

5 (i) in the definition of “the Convention” by substituting “Luxembourg” for “Brussels”, and

(ii) inserting after the definition of “specified offence” the following:

10 “ ‘state of residence’ means the state of residence of a person who has committed a specified offence and to whom this subsection applies.”,

and

(c) in the Second Schedule, in the title, by substituting “Luxembourg” for “Brussels”.

## PART 7

### 15 CERTAIN DRIVING OFFENCES

**56.—(1)** The following sections are substituted for sections 51A, 52 (inserted by sections 49 and 50, respectively, of the Act of 1968), 53 (as amended by section 51 of the Act of 1968, section 49(1)(b) of the Act of 1994 and section 13 of the Act of 2004), 54 (as amended by section 6 of the Act of 1968) and 55 (as amended by section 52 of the Act of 1968) of the Principal Act: Inconsiderate, careless and dangerous driving, etc.

“Driving without reasonable consideration. 51A.—(1) A person shall not drive a vehicle in a public place without reasonable consideration for other persons using the place.

25 (2) A person who contravenes subsection (1) commits an offence.

Careless driving. 52.—(1) A person shall not drive a vehicle in a public place without due care and attention.

30 (2) A person who contravenes subsection (1) commits an offence and—

35 (a) in case the contravention causes death or serious bodily harm to another person, he or she is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding €10,000 or to both, and

(b) in any other case, he or she is liable on summary conviction to a fine not exceeding €5,000.

40 (3) Where a member of the Garda Síochána is of opinion that a person has committed an offence under this section and that the contravention has caused death or serious bodily harm to another

person, he or she may arrest the first-mentioned person without warrant.

Dangerous driving.

53.—(1) A person shall not drive a vehicle in a public place in a manner (including speed) which, having regard to all the circumstances of the case (including the condition of the vehicle, the nature, condition and use of the place and the amount of traffic which then actually is or might reasonably be expected then to be in it) is dangerous to the public. 5 10

(2) A person who contravenes subsection (1) commits an offence and—

(a) in case the contravention causes death or serious bodily harm to another person, he or she is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or to a fine not exceeding €20,000 or to both, and 15

(b) in any other case, he or she is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both. 20

(3) In a prosecution for an offence under this section or section 52, it is not a defence to show that the speed at which the accused person was driving was not in excess of a speed limit applying in relation to the vehicle or the road, whichever is the lower, under Part 2 of the Road Traffic Act 2004. 25 30

(4) Where, when a person is tried on indictment or summarily for an offence under this section, the jury, or, in the case of a summary trial, the District Court, is of the opinion that he or she had not committed an offence under this section but had committed an offence under section 52, the jury or court may find him or her guilty of an offence under section 52, and he or she may be sentenced accordingly. 35 40

(5) Where a member of the Garda Síochána is of opinion that a person has committed an offence under this section, he or she may arrest the person without warrant.

Driving of dangerously defective vehicle.

54.—(1) Where a mechanically propelled vehicle is driven in a public place while there is a defect affecting the vehicle which the owner of it knows of or could have discovered by the exercise of ordinary care and which is such that the vehicle is, when in motion, a danger to the public, such owner commits an offence. 45 50

5 (2) Where a person is charged with an offence under this section, it is a defence to the charge for him or her to show that the vehicle was being driven on the occasion in question by another person and that such driving was unauthorised.

(3) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months or to both.

10 Parking vehicle in dangerous position. 55.—(1) A person shall not park a vehicle in a public place if, when so parked, the vehicle would be likely to cause danger to other persons using that place.

15 (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction—

(a) in the case of—

20 (i) a first offence, where any part of the period of the contravention was a period within lighting-up hours (as declared by regulations under section 11) during which the vehicle did not fulfil the requirements imposed by law with respect to lighting and reflectors, or

25 (ii) a second or any subsequent offence,

30 to a fine not exceeding €3,000 or to imprisonment for a term not exceeding one month or to both, and

(b) in any other case, to a fine not exceeding €2,000.

35 (3) Where a member of the Garda Síochána is of opinion that a person is committing or has committed an offence under this section, he or she may arrest the person without warrant.”.

57.—The following are repealed:

Repeals — Part 7.

- 40 (a) section 35 of the Offences against the Person Act 1861,  
(b) section 49 to 52 of the Act of 1968,  
(c) section 13 of the Act of 2004, and  
(d) the matter at reference numbers 11 to 16 in Part 1 of the Table to section 18 of the Act of 2006.

PART 8

MISCELLANEOUS

Definitions —  
Principal Act.

**58.**—Section 3(1) of the Principal Act is amended by—

(a) substituting for the definition of “the Minister” the following: 5

“ ‘Minister’ means Minister for Transport;”,

and

(b) for the definition of “road authority” the following:

“ ‘road authority’ means—

(a) a county council, referred to in Part 1 of Schedule 5, 10

(b) a city council, referred to in Part 2 of Schedule 5,

(c) a borough council, referred to in Chapter 1 of Part 1 of Schedule 6, or 15

(d) a town council, referred to in Chapter 2 of Part 1 of Schedule 6,

to the Local Government Act 2001;”,

and

(c) by inserting after the definition of “use” the following: 20

“ ‘vehicle’ means a mechanically propelled vehicle, an animal drawn vehicle or pedal cycle;”.

Driving or being in  
charge of a  
substantially  
disabled  
mechanically  
propelled vehicle.

**59.**—Section 3 of the Principal Act is amended by substituting for subsection (2) the following:

“(2) Where a vehicle, which, apart from this subsection, 25  
would be a mechanically propelled vehicle, stands so substantially disabled (either through collision, breakdown or the removal of the engine or other such vital part) as to be no longer capable of being propelled mechanically, it shall be regarded—

(a) for the purposes of the *Road Traffic Acts 1961 to 2009*, 30  
if it is disabled through collision, as continuing to be a mechanically propelled vehicle, and

(b) for all other purposes of this Act as not being a mechanically propelled vehicle.”.

Amendment of  
section 47 of  
Principal Act —  
offence of  
exceeding speed  
limit.

**60.**—Section 47 (inserted by section 11 of the Act of 2004) of the 35  
Principal Act is amended by inserting after subsection (2) the following:

“(2A) In a prosecution for an offence under this section, it is presumed, until the contrary is shown by the defendant, that the

speed limit indicated on a traffic sign is the speed limit that has been applied under this Act to the road when the offence is alleged to have been committed.”.

5 **61.**—(1) Part VI of the Principal Act is amended by inserting after section 78 the following:

Vehicle insurers to provide details of motor insurance policies.

10 “78A.—(1) A vehicle insurer shall make available, within 5 working days, to the Minister for Transport, the Garda Síochána and the Motor Insurer’s Bureau of Ireland, details of new motor insurance policies issued and existing motor insurance policies cancelled by it in so far as they relate to third party cover.

(2) In this subsection ‘motor insurance policies’ means approved policies of insurance (within the meaning of section 62) issued by a vehicle insurer.”.

15 (2) Sub-article (4) of article 9 of the Road Traffic (Compulsory Insurance) Regulations 1962 (S.I. No. 14 of 1962) is revoked.

20 **62.**—(1) The onus of establishing *prima facie* proof of a constituent of an offence (including the speed at which a person, whether the accused or another person, was driving) under section 47, 52, 53, 55, 91, 92, 93 or 94 of the Principal Act, section 35 of the Act of 1994 or section 138 of the Railway Safety Act 2005 may be discharged by tendering evidence from which that constituent can be inferred of measurements or other indications which were given by—

Evidence in relation to speeding and certain other offences.

25 (a) electronic or other apparatus (including a camera) capable of providing a permanent record (including a permanent visual record) and are contained in such a record produced by it, or

(b) electronic or other apparatus (including a radar gun) which is not capable of producing a permanent record.

30 It is not necessary to prove that the electronic or other apparatus was accurate or in good working order.

(2) In proceedings for an offence referred to in *subsection (1)*—

(a) a document purporting to be, or to be a copy of, a record referred to in *subsection (1)(a)*—

35 (i) which is not a permanent visual record and to be signed by a member of the Garda Síochána, or

40 (ii) which is a permanent visual record and to be issued by or on behalf of a member of the Garda Síochána or an administrative office or unit of the Garda Síochána designated in that behalf by the Commissioner, or a person authorised under an agreement under *subsection (7)*,

and

(b) on which is endorsed a statement to the effect that it is, or is a copy of, that record,

45 shall be *prima facie* evidence in those proceedings of the indications or measurements contained in the record. It shall not be necessary

to prove, as the case may be, the signature on the document or that the signatory was a member of the Garda Síochána or that the document was so issued.

(3) A copy of the document referred to in *subsection (2)* shall be given to the accused person before the commencement of the trial of the offence concerned. 5

(4) The electronic or other apparatus referred to in *subsection (1)* shall—

(a) be of a type that has been approved by—

(i) the Commissioner or another member of the Garda Síochána not below the rank of Chief Superintendent authorised in that behalf by the Commissioner, or 10

(ii) the chief executive officer of the National Roads Authority or another officer of that Authority duly authorised in that behalf by the first-mentioned officer, 15

and

(b) in the case of an apparatus referred to in *subsection (1)(a)*, be capable of producing a record of the measurements or other indications referred to in *subsection (1)*. 20

It is not necessary to prove that the apparatus is of a type so approved.

(5) In proceedings for an offence referred to in *subsection (1)*, if proof of the offence involves proof of the speed at which a person (whether the accused or another person) was driving, the uncorroborated evidence of one witness stating his opinion as to that speed shall not be accepted as proof of that speed. 25

(6) In proceedings for an offence referred to in *subsection (1)* it shall be presumed, until the contrary is shown, that— 30

(a) the electronic or other apparatus used for the tendering of evidence was provided and maintained by a member of the Garda Síochána, or a person authorised under an agreement under *subsection (7)*, and

(b) that the development, production and viewing of records produced by such apparatus was carried out by a member of the Garda Síochána, or a person authorised under an agreement under *subsection (7)*. 35

(7) (a) The Minister for Justice, Equality and Law Reform may by an agreement in writing entered into with any person, upon such terms and conditions as may be specified in the agreement, which shall include a condition to the effect that the determination of the locations where equipment is to be operated shall be a function of a member of the Garda Síochána not below the rank of Superintendent, provide for the authorisation of that or other persons for the purposes of *subsection (2)*, and the performance by those authorised persons of any function, which shall be specified in the agreement, relating to the establishing of *prima facie* proof of a constituent of an 40 45 50



5 offence including the provision, maintenance and operation of equipment and the development, production and viewing of records produced by that equipment and the production of measurements or other indications from which a constituent of an offence can be inferred.

(b) An agreement referred to in *paragraph (a)* may apply to the performance of all or any of the functions specified in that agreement.

10 (c) Section 14(2), (3) and (4) of the Act of 2002 applies to any agreement entered into by the Minister for Justice, Equality and Law Reform under this subsection.

(8) In proceedings for an offence referred to in *subsection (1)* it shall be presumed, until the contrary is shown, that—

15 (a) the electronic or other apparatus used for the tendering of evidence was provided and maintained by a member of the Garda Síochána or by a person authorised under an agreement under *subsection (7)*, and

20 (b) that the development, production and viewing of records produced by such apparatus was carried out by a member of the Garda Síochána or by a person authorised under an agreement under *subsection (7)*.

25 (9) A member of the civilian staff of the Garda Síochána may perform the functions relating to the establishing of *prima facie* proof of a constituent of an offence including the development, production and viewing of records produced by that equipment and the production of measurements or other indications from which a constituent of an offence can be inferred.

(10) In this section—

30 “member of the civilian staff of the Garda Síochána” means a person appointed or designated as being transferred under section 19 of the Garda Síochána Act 2005;

“member of the Garda Síochána” other than in *subsection (3)* or *(7)*, includes a member of the civilian staff of the Garda Síochána;

“permanent visual record” includes a photograph;

35 “radar gun” means an apparatus which—

40 (a) can be used to measure the speed of a moving object (such as a motor vehicle) by directing a signal from the apparatus at the object, and, if the signal is reflected off the object, the apparatus in turn receives the reflected signal, and

(b) is capable of measuring the speed of the object and displaying the speed on the apparatus;

“record” includes a visual record which can be stored permanently on the apparatus concerned.

45 (11) The following are repealed:

(a) section 21 of the Act of 2002,

(b) section 15 of the Act of 2004, and

(c) section 17 of the Act of 2006.

Cost of prosecutions — road traffic offences.

**63.**—(1) Where a person is convicted of an offence under the *Road Traffic Acts 1961 to 2009* committed after the commencement of this section, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the court the costs and expenses, measured by the court, incurred in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples and the carrying out of tests, examinations and analyses.

(2) Payments under *subsection (1)* shall be disposed of in such manner as may be prescribed.

Functions of Commissioner of Garda Síochána.

**64.**—(1) Any reference to the Commissioner in the *Road Traffic Acts 1961 to 2009* or the *Roads Acts 1993 to 2007* is to be read as a reference to the Commissioner or another member of the Garda Síochána not below the rank of Chief Superintendent authorised by the Commissioner to act or carry out a function or requirement on his or her behalf.

(2) Section 28 of the Act of 2004 is repealed.

Amendment of section 15 of Act of 1968 — increase in certain penalties.

**65.**—The following Table is substituted for the Table (inserted by section 23(2) of the Act of 2002) to section 15 of the Act of 1968:

“TABLE

Where the excess weight is not less than 1,000 kilograms but is less than 2,000 kilograms	€500	25
Where the excess weight is not less than 2,000 kilograms but is less than 3,000 kilograms	€1,000	
Where the excess weight is not less than 3,000 kilograms but is less than 4,000 kilograms	€1,500	30
Where the excess weight is not less than 4,000 kilograms but is less than 5,000 kilograms	€3,000	
Where the excess weight is 5,000 kilograms or more	€5,000	35

”.

Amendment of section 18(2) of Act of 1968 — driving instructors — assessment of applicants.

**66.**—Section 18(2) of the Act of 1968 is amended by inserting after paragraph (d) the following:

“(da) the fitness of applicants for driving instructor licences.”.

Special speed limits.

**67.**—Section 9(2) of the Act of 2004 is amended in paragraph (a) by deleting “(other than a motorway)”.

Exemptions for emergency vehicles.

**68.**—(1) Requirements under the *Road Traffic Acts 1961 to 2009* relating to vehicles and requirements, restrictions and prohibitions

relating to the driving and use of vehicles, other than those provided under sections 4, 5, 11 and 13 of this Act and sections 51A, 52 and 53 (inserted by section 56) of the Principal Act, do not apply to—

- 5 (a) the driving or use by a member of the Garda Síochána, an ambulance service or a fire brigade of a fire authority (within the meaning of the Fire Services Act 1981) of a vehicle in the performance of the duties of that member, or
- 10 (b) a person driving or using a vehicle under the direction of a member of the Garda Síochána,

where such use does not endanger the safety of road users.

(2) Section 27 of the Act of 2004 is repealed.

**69.**—Section 30 of the Act of 2004 is amended by substituting for subsection (2) the following:

Penalty — supply of mechanically propelled vehicle to minor.

- 15 “(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.”.

**70.**—Section 35 (as amended by section 12(4)(b) of the Roads Act 2007) of the Act of 1994 is amended by inserting after subsection (6) the following:

Display of local authority permits.

- 25 “(7) Where regulations under this section provide for permits to be issued as provided for under subsection (2)(t), the regulations may specify the manner of displaying on the vehicle concerned, or any trailer or container attached to it, the permit or an abstract of it or an indication of its issue.”.