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Explanatory Memorandum](#)

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**AN BILLE CHUN DOGHLUAISTEACHT FEITHICLÍ A  
RIALÁIL 2010  
VEHICLE IMMOBILISATION REGULATION BILL 2010**

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*Mar a tionscnaíodh  
As initiated*

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**ARRANGEMENT OF SECTIONS**

**Section**

1. Short title and commencement.
  2. Interpretation.
  3. Conferral of additional function on National Transport Authority.
  4. Amendment of Act of 2008.
  5. Offence of unlicensed vehicle-clamping.
  6. Offence of using unlicensed vehicle-clampers.
  7. Penalties.
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ACT REFERRED TO

Dublin Transport Authority Act 2008

2008, No. 15



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**BILL**

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*entitled*

AN ACT TO PROVIDE FOR THE REGULATION OF  
VEHICLE CLAMPING ACTIVITIES ON PRIVATE LAND  
AS PART OF THE EFFECTIVE MANAGEMENT OF  
TRAFFIC BY THE NATIONAL TRANSPORT AUTH-  
10 ORITY IN ACCORDANCE WITH THE FUNCTIONS OF  
THAT AUTHORITY; TO PROVIDE FOR THE OFFENCE  
OF UNLICENSED VEHICLE IMMOBILISATION OR  
USING UNLICENSED VEHICLE IMMOBILISERS AND  
TO MAKE PROVISION FOR CONNECTED MATTERS.

15 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.**—(1) This Act may be cited as the Vehicle Immobilisation Regulation Act 2010. Short title and commencement.

(2) This Act shall come into operation 90 days after its enactment.

**2.**—In this Act: Interpretation.

20 “Act of 2008” means the Dublin Transport Authority Act 2008;

“Vehicle immobilisation” means the attachment to a vehicle, or to a part of it, of a device which causes the immobilisation of that vehicle, or the removal of a vehicle from its stationary position by any person other than the Garda Síochána.

25 **3.**—The Act of 2008 is amended in subsection (1) of section 11 by the insertion of the following paragraph after paragraph (e): Conferral of additional function on National Transport Authority.

30 “(f) regulate the licensing and control of vehicle immobilisation activities, and the standards to be applied to vehicle immobilisation activities and for that purpose to make regulations.”.

**4.**—The Act of 2008 is amended— Amendment of Act of 2008.

(a) in section 2 by the insertion of the following new definition after “Transport 21”:

“ ‘Vehicle immobilisation’ has the meaning assigned to it by *section 2* of the *Vehicle Immobilisation Regulation Act 2010*,”

and

(b) by the insertion of the following new section after section 71: 5

“Licensing of vehicle immobilisation activities.

71A.—(1) A license granted pursuant to section 11(1)(f) shall be granted in respect of vehicle immobilisation activity that is conducted on privately owned land or premises and no license may be granted for vehicle clamping activity on any other land or premises. 10

(2) Regulations made under section 11(1)(f) may, in particular and without prejudice to the generality of paragraph (f) make provision in relation to— 15

- (i) the terms or conditions relating to the grant of a licence,
- (ii) the manner and form of an application for the grant of a licence, 20
- (iii) the format and content of a licence,
- (iv) the period of validity of a licence,
- (v) the revocation and suspension of a licence, 25
- (vi) the form and content of any identification to be held by persons engaged in licensed activity under paragraph (f) including internal and external vehicle signage, badges or any other means to be specified, 30
- (vii) the fees or penalties that may be applied in the course of vehicle clamping activities, and 35
- (viii) provision for the appeal of a wrongfully clamped vehicle.

(3) Fees or penalties that may be established or imposed pursuant to subsection (2) shall not exceed €140 in respect of each instance of vehicle clamping, or such other maximum fee as may be set from time to time by the Minister by regulations. 40

(4) In making regulations under section 11(1)(f), the Authority may establish requirements and conditions for the purpose of the assessment of applicants for the grant of licences, including requirements 45

and conditions in respect of the fitness of a person to hold a licence having regard to an assessment carried out by the Garda Commissioner or on behalf of the Authority, and to certify the fitness of any employee of a person to whom a licence has been granted to engage in activities licensed under this section.

(5) A person who fails to comply with or contravenes a regulation made under this section or section 11(1)(f) is guilty of an offence.”.

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15 5.—A person, or any of his or her servants, agents or employees, who engages in vehicle immobilisation activities without a licence granted by the National Transport Authority is guilty of an offence. Offence of unlicensed vehicle-clamping.

6.—(1) A person who is an occupier of any land or premises is guilty of an offence if— Offence of using unlicensed vehicle-clampers.

(a) any individual carries out, in relation to vehicles on those premises, the immobilisation of a vehicle;

20 (b) the carrying out of such immobilisation of a vehicle involves that individual’s engaging in licensable conduct in respect of which he or she is not the holder of a licence; and

25 (c) the immobilisation of a vehicle was carried out with the permission of that occupier or for the purposes of, or in connection with, any contract for the supply of services to him or her.

(2) In proceedings against any person for an offence under this section it shall be a defence for that person to show either—

30 (a) that he or she did not know, and had no reasonable grounds for suspecting, at the time when the immobilisation of a vehicle was carried out, that the individual in question was not the holder of a licence in respect of those activities; or

35 (b) that he or she took all reasonable steps, in relation to the carrying out of the immobilisation of a vehicle, for securing that that individual would not engage in any licensable conduct in respect of which he or she was not the holder of a licence.

40 (3) A person shall not be guilty of an offence under this section in respect of the carrying out of activities which are comprised in any conduct of an individual in which he or she is required to engage by virtue of the course of his or her employment.

7.—A person guilty of an offence under this Act shall be liable— Penalties.

45 (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.



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**EXPLANATORY MEMORANDUM**

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*Purpose of Bill*

The lack of regulation governing vehicle immobilisation companies has led to some sharp practices in the industry. As it currently stands, vehicle immobilisation companies can operate at will. Anyone can establish such a business and charge drivers a fee to unlock their car.

The provisions of the Road Traffic Acts only relate to vehicles illegally parked on public roads or in local authority car parks and there are no proposals from government relating to vehicles illegally parked on private land.

In order to tackle this abuse, this Bill seeks to establish a comprehensive licensing system that protects the motorist from rogue vehicle immobilisers. Through this Bill, the National Transport Authority, as the relevant licensing authority, will put in place licensing conditions for the granting of licences, and standards of operation for all private vehicle immobilisers.

*Provisions of Bill*

*Section 1* is the title and commencement section. It provides that the Act will come into effect 90 days after its enactment.

*Section 2* is the interpretation section and provides the definition of vehicle immobilisation.

*Section 3* provides the National Transport Authority with the necessary powers to regulate the licensing of vehicle immobilisation activities.

*Section 4* provides the terms on which a licensing system may be created by the National Transport Authority.

*Section 5* makes it an offence to engage in unlawful vehicle immobilisation.

*Section 6* makes it an offence for owners of private property to allow vehicle immobilisation occur on that property.

*Section 7* provides the penalties for unlawful vehicle immobilisation activity. It is anticipated that infringements of this system will be dealt with by summary proceedings but provision is made for more serious penalties to account for persistent unlawful vehicle immobilisation.

*Deputy Simon Coveney,*  
*October, 2010.*