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**AN BILL UM RIALÁIL TACSAITHE, 2012**  
**TAXI REGULATION BILL 2012**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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*Purpose of Bill*

The purpose of this Bill is to restate and revise the Taxi Regulation Act 2003 in order to strengthen the legislative basis for the regulation of the taxi sector, in particular to strengthen enforcement of the taxi regulations, involving:

- to provide for mandatory disqualification from holding a licence on conviction of certain offences;
- suspension and revocation of a licence, or refusal of a licence application, with due regard to the suitability of the person to hold a licence and, among other considerations, to conviction for relevant offences or breaches of taxi regulations;
- specifying the fixed charge offences and other offences that qualify as demerit offences and the specification of the conditions of a demerits scheme leading to disqualification from holding a licence;
- to enable the Authority to enter into service agreements with other persons for the purposes of enforcement;
- the powers of authorised officers to inspect and examine the condition and road-worthiness of SPSV vehicles on private premises and the requirement for a warrant to enter a private dwelling for enforcement purposes; and,
- to enable the National Transport Authority (the Authority) to authorise the establishment and use of cameras, CCTV and other apparatus for the enforcement of taxi regulations and the conditions for use of this evidence in court proceedings.

**PART 1**

**PRELIMINARY AND GENERAL**

*Section 1 Short title, commencement and collective citation*

This is a standard provision setting out the short title, commencement and collective citation provisions for the Act

*Section 2 Definitions*

This is a standard provision providing interpretation of certain words and phrases used in the Act

*Section 3 Regulations and Orders*

This Section provides for regulations and orders made under this Act, including the process for consultation and publication where the Authority makes such regulations

*Section 4 Repeals*

This Section provides for consequential repeals as a result of this Act

*Section 5 Expenses*

This Section provides that where the Minister incurs expenses under the Act, they may be paid out of monies provided by the Oireachtas, as sanctioned by the Minister for Public Expenditure and Reform

## PART 2

### SMALL PUBLIC SERVICE VEHICLE LICENSING

*Section 6 Licensing Authority*

Subsection (1) provides that the National Transport Authority is the licensing authority to grant licences for the purpose of this Act.

Subsection (2) provides that the Garda Siochana is the licensing authority to grant SPSV driver licences for the purposes of this Act until such time as an order is made under subsection (3).

Subsection (3) provides for the Minister to make an order specifying the date from which the Garda Siochana ceases to be the licensing authority for SPSV driver licences.

Subsection (4) provides for transitional provisions in respect of an order made under subsection (3).

*Section 7 Licensing Regulations*

Subsection (1) provides that the Authority may make regulations in relation to the licensing of SPSVs.

Subsection (2) provides for parameters of the regulations to be made under subsection (1).

Subsection (3) provides that regulations made concerning SPSV driver licensing will only be made subject to consultation with the Garda Commissioner and the Advisory Committee.

Subsection (4) provides that in making regulations the Authority may set different requirements with regard to licences for different categories or classes of vehicle, different circumstances and different areas of the State.

Subsection (5) provides that it is an offence for a licence holder to fail to give information or to knowingly give false information to a licensing authority under licence regulations.

Subsection (6) provides that it is an offence for a person to operate or rent a vehicle contrary to restrictions contained in a licence.

*Section 8 Assessment of licence applicants and notification of health issues*

Subsection (1) provides that the Authority may make regulations concerning assessment of applicants for the grant of licences and sets out the requirements and conditions to be specified by such regulations.

Subsection (2) provides that the Authority, for the purpose of assessing applications for the grant of a licence, can authorise or approve a person with regard to their compliance with the level of competence in respect of standards established under subsection (1).

Subsection (3) provides that standards, in respect of matters referred to in subsection (1), which were set under regulations made under Section 34 of the Taxi Regulation Act 2003 before the commencement of the provisions of the Act will continue into force.

Subsection (4) provides that the Authority can at any time request the Garda Commissioner to carry out an assessment of a person's suitability to hold a licence.

Subsection (5) provides that a licence applicant disclose to the licensing authority particulars relevant to that persons physical or mental capacity to hold a licence.

Subsection (6) provides for the Authority to make guidelines for the purpose of subsection (5).

Subsection (7) provides that it is an offence for a person, without reasonable excuse, to fail to comply with subsection (5).

*Section 9 Grant and renewal of licence*

Subsection (1) provides that a licensing authority may upon application in accordance with the regulations grant a licence.

Subsection (2) provides for the licence application form, accompanying documentation and information and fee, which is to be determined by the licensing authority.

Subsection (3) provides that a licensing authority shall not grant a licence in the absence of a certificate under assessment regulations under section 8.

Subsection (4) provides that it is an offence for a person to give false or misleading information in an application for a licence.

Subsection (5) provides for existing licences granted under the Taxi Regulation Act 2003 or the Road Traffic Act 1961 to be renewed.

Subsection (6) provides that an SPSV driver licence can only be granted to an individual.

Subsection (7) provides that licences other than those referred to in subsection (5) can be granted to an individual or a Company.

Subsection (8) provides for the association of company members details with an application for a licence where the applicant is a company and that if there is a change in control in the company that the licensing authority is notified of the change.

Subsection (9) provides that the licensing authority when granting a licence has regard for the criteria in section 10 concerning suitability to hold a licence.

Subsection (10) provides for the licensing authority to grant terms and conditions to the licence.

Subsection (11) provides that the production of a tax clearance certificate in force by the applicant is a licensing requirement.

Subsection (12) provides for the annual submission of a tax clearance in force to the Authority.

Subsection (13) provides that compliance with the regulations under this Act is a term of the licence.

Subsection (14) provides for the continuation in force of a licence if following submission of an application for renewal within the period required by regulations a decision has not been made on the application, until such time as a decision is made on the application.

Subsection (15) provides for the continuance in force of current licences under the Taxi Regulation Act 2003 and the Road Traffic Act 1961.

Subsection (16) provides for the interpretation of terms used in this section.

#### *Section 10 Suitable person to hold licence*

Subsection (1) provides for the licensing authority in granting a licence to be satisfied of a person's suitability to hold a licence.

Subsection (2) provides for the considerations of the licensing authority in the assessment with regard to subsection (1).

#### *Section 11 Revocation — suspension of licence*

Subsection (1) provides that where a licensing authority is satisfied that the holder of a licence is no longer a suitable person to hold a licence, it may at any time revoke a licence.

Subsection (2) provides for the considerations of the licensing authority in deciding to revoke a licence.

Subsection (3) provides for the circumstances whereby a licensing authority decides not to revoke a licence under subsection (1) but can suspend the licence for a period not exceeding 3 months or issue a reprimand, warning, caution or advice to the licence holder.

Subsection (4) provides that a licence suspended under this subsection (3) ceases to have effect and cannot be construed to extend the period of operation of the licence.

#### *Section 12 Representations and Appeals*

Subsection (1) provides that the licensing authority will notify an applicant or holder of a licence of the proposal and reasons for the revocation or suspension of a licence or refusal of an application for a licence, and consider any representation made in this regard.

Subsection (2) provides that the licensing authority, subject to consideration of any representations under subsection (1) can decide to refuse to grant a licence or to revoke or suspend a licence, and notify the applicant or holder in writing and of the appeal process.

Subsection (3) provides that where an applicant or licence holder is notified under subsection (2) they may within 28 days appeal the decision to the District Court.

Subsection (4) provides that in the case of an appeal of a decision to suspend or revoke a licence under subsection (3) the decision stands suspended until the appeal has been determined or withdrawn.

Subsection (5) provides that an appeal under subsection (3) shall be to a judge of the District Court within whose jurisdiction the applicant or holder ordinarily carries on or proposes to carry on the business of providing SPSV services.

Subsection (6) provides for a person to appeal to a District Court against a decision of a licensing authority to issue a reprimand, warning, caution or advice under Section 11(3)(b)(II).

Subsection (7) provides that pursuant to subsection (6) a District Court may confirm or vary the decision of a licensing authority or uphold the appeal.

Subsection (8) provides that a Court may on appeal under subsection (3) or (6) confirm a licensing decision under subsection (2) or allow the appeal, in which case the licensing authority shall grant the licence.

Subsection (9) provides that a Court decision on an appeal under subsection (3) is final, except where on a specified point of law it may lie with the High Court.

Subsection (10) provides that this section upon commencement will replace any appeals procedure established under section 82 of the Road Traffic Act 1961 with regard to refusals of licence applications or revocation or suspension of licences.

Subsection (11) provides for the Authority to make regulations with regard to the procedure for representations under subsections (1) and (2).

### *Section 13 Prohibition on transfer of licence*

Subsection (1) provides that a licence whether granted before or after commencement of this section shall not be transferred.

Subsection (2) provides that this section does not affect licences lawfully transferred before the commencement of the section.

### *Section 14 Obligation on holder of licence where licence is revoked or suspended or expires, or changes address*

Subsection (1) provides that a licence holder, when a licence is suspended, revoked, expired or a renewal application refused, shall return the licence and remove any licence discs, signs or badge from the vehicle.

Subsection (2) provides that it is an offence for a person to fail to comply with subsection (1).

Subsection (3) provides that where a licence holder changes address it shall notify the licensing authority within 14 days of the change.

Subsection (4) provides that failure to comply with subsection (3) is an offence.

Subsection (5) provides that upon termination of a suspension period the licensing authority shall return the licence, and any badge disc or sign.

Subsection (6) provides that reference to sign, disc or badge in this section refers to such items issued under the SPSV regulations.

*Section 15 Register of licences*

Subsection (1) provides for the continuation of the register of licences under Section 38 of the Taxi Regulation Act 2003.

Subsection (2) provides that the register may be maintained in a non-legible form if its capable of being made legible.

Subsection (3) provides for the details in relation to licences and their holders that the register can contain.

Subsection (4) provides that upon payment of a fee the Authority can issue a certificate relating to information contained in the register.

Subsection (5) provides for the funding of the register from the fees accruing to the Authority under this Act.

Subsection (6) provides that information contained on the register, subject to determination by the Authority in consultation with the Garda Síochána, remain confidential and available for inspection upon payment of a fee.

Subsection (7) provides that the “term” register means “register of licences” for the purposes of this section.

## PART 3

### REGULATION OF SMALL PUBLIC SERVICE VEHICLE INDUSTRY

*Section 16 Functions of the Authority to regulate taxi industry, etc.*

Subsection (1) provides that it is a function of the Authority to develop, operate and maintain a regulatory framework for licensing, operation and standards of SPSV vehicles, drivers and services.

Subsection (2) provides for the objectives of that Authority will seek to achieve in carrying out its functions at subsection (1).

Subsection (3) provides that, subject to a Ministerial policy direction under section 26 of the Act, the Authority shall be independent in carrying out its functions under subsection (1).

Subsection (4) provides that the functions of the Authority can be carried out by or through a member of, or member of the staff authorised by the Authority or under a service agreement.

*Section 17 Small public service vehicle regulations*

Subsection (1) provides that the Authority may make regulations in relation to the operation and standards to be applied to SPSV vehicles, drivers and dispatch operators, and the duties of drivers.

Subsection (2) provides for the different requirements and conditions that the Authority may set in regulations under subsection (1).

Subsection (3) provides that regulations made under this section can specify substantial breaches of the regulations.

Subsection (4) provides that it is an offence to not comply with or to contravene regulations made under subsection (1).

#### *Section 18 Codes of Practice*

Subsection (1) provides for the Authority to establish or adopt a code of practice for the purpose of providing practical guidance relating to licence holders and standards with regard to duties, etc. of drivers.

Subsection (2) provides that any code of practice under subsection (1) is in addition to and not substitution for any SPSV regulations.

Subsection (3) provides for the format and fee for publication of the code of practice by the Authority, specifying the date from which it or any amendment of it takes effect.

Subsection (4) provides for a duty on a person to comply with a code of practice under this Section.

Subsection (5) provides that the Authority may publish the Code of Practice under this section with or without modifications following consultation on a draft in advance of publication.

Subsection (6) and (7) provide that in proceedings for an offence under this Act, where a relevant code of practice was in effect at the time of the offence, failure to observe a relevant code of practice or compliance with the code of practice is admissible as evidence.

Subsection (8) provides for the terms for admission of a code of practice as evidence in all court proceedings under this Act.

Subsection (9) provides for the interpretation of the term “code of practice” in this Section.

#### *Section 19 Prohibition on providing small public service vehicle services without licence*

Subsection (1) provides that a person cannot drive or use a mechanically propelled vehicle in a public place for carriage of persons for reward without an SPSV drivers licence to do so.

Subsection (2) provides that a person cannot drive or use a mechanically propelled vehicle in a public place for carriage of persons for reward without an SPSV vehicle licence.

Subsection (3) provides that a person cannot ply or stand for hire in a mechanically propelled vehicle without a SPSV driver licence to do so.

Subsection (4) provides that a person cannot ply or stand for hire in a mechanically propelled vehicle without a SPSV vehicle licence.

Subsection (5) provides that it is an offence to contravene subsections (1) and (3).

Subsection (6) provides that it is an offence for a person or vehicle owner to contravene subsection (2) and (4).

Subsection (7) provides that a person cannot act as a dispatch operator unless licensed to do so.

Subsection (8) provides that it is an offence for a person to contravene subsection (7).

Subsection (9) provides for the interpretation of certain terms in this section.

*Section 20 Obligations on public service vehicle drivers towards passengers*

Subsection (1) provides that a driver charging over and above a fare agreed before commencement of the journey commits an offence.

Subsection (2) provides that a passenger cannot be unreasonably refused by a taxi driver and exceptions to this rule.

Subsection (3) provides that the driver of a taxi must complete the journey by the shortest route possible.

Subsection (4) provides that it is an offence not to comply with subsections (2) or (3).

*Section 21 Maximum fares*

Subsection (1) provides for the Authority to fix a maximum fare by order.

Subsection (2) provides that different maximum fares may be fixed in respect of different hires — single or shared, or for different circumstances or times.

Subsection (3) provides that the Authority consult with any relevant local authority, the Advisory Committee and the Legal Metrology Service before fixing maximum fares and consult publicly via the website and in newspapers of its proposals to fix a maximum fare and to take into account representations made in this regard.

Subsection (4) provides that the Authority publish on its website and in newspapers where maximum fares have been fixed.

Subsection (5) provides for an officer of the Authority to issue a certificate with regard to the specific day that a maximum taxi fare was fixed.

Subsection (6) provides that a certificate under subsection (5) is deemed to be evidence until the contrary is shown.

Subsection (7) provides that it is an offence for a taxi driver to charge above the maximum fare.

Subsection (8) provides that prior arrangement for payments shall be honoured in line with any maximum fares order.

Subsection (9) provides that it is an offence for a person not to comply with subsection (8).

Subsection (10) provides that the validity of any maximum fares or order shall not be affected by non-compliance with subsection (3) or (4).

Subsection (11) provides for the interpretation of terms used in this section.

## *Section 22 Appointed stands (taxi ranks)*

Subsection (1) provides that a local authority may make bye-laws in respect of appointed stands.

Subsection (2) provides that different by-laws can be made for different areas and in respect of different circumstances.

Subsection (3) provides that the driver of a taxi shall not stand for hire other than at an appointed stand in the area or county specified on the SPSV driver licence.

Subsection (4) provides that a person shall not stand for hire at an appointed stand with a taxi in contravention of the bye-laws.

Subsection (5) provides that where an appointed stand is full a taxi driver may not consider part of the road adjoining or nearby to be part of the appointed stand.

Subsection (6) provides that a taxi driver may not stand or park with a vehicle at an appointed stand unless the vehicle is for hire.

Subsection (7) provides that the driver of a mechanically propelled vehicle which is not a taxi shall not stand or park with the vehicle at an appointed stand.

Subsection (8) provides that an authorised person may ask a driver in a vehicle that is contravening this section or section 5 or 6 of the Criminal Justice (Public Order) Act 1994 to move on.

Subsection (9) provides that contravention of subsection (3), (4), (5) (6) or (7) is an offence.

Subsection (10) provides that a person who fails to comply with a request of an authorised person under subsection (8) commits an offence.

Subsection (11) provides that a member of the Garda Síochána can arrest a person without a warrant if in the members opinion the person is not complying with subsection (8).

Subsection (12) where a local authority makes bye-laws under this section it shall consult with the Authority and An Garda Síochána and publish a notice in *Iris Oifigiúil*.

Subsection (13) provides for representation to be made with regard to a notice under subsection (12).

Subsection (14) provides for the local authority to consult with a relevant road authority if bye-laws under this section are relevant to the area of responsibility of the road authority.

Subsection (15) provides for bye-laws to be published in the newspapers.

Subsection (16) provides that the Authority can draw up guidelines with respect to bye-laws and that a local authority shall have regard to such guidelines.

Subsection (17) provides that a function conferred on a local authority under subsection (1) is a reserved function.

Subsection (18) provides that bye-laws in force prior to commencement of this section shall continue in force and can be amended or revoked.

Subsection (19) provides for the interpretation of terms used in this section.

*Section 23 Restriction on use of “taxi”*

Subsection (1) provides that a person cannot display or use the words “taxi” or “tacsai” or any variant derivative term on a vehicle, sign or advertisement if the vehicle is not licensed as a taxi.

Subsection (2) provides that a person cannot use any document or advertisement in respect of SPSV services using the words mentioned in subsection (1) unless the service relates to the provision of such licensed taxi service.

Subsection (3) provides that a person cannot display on a vehicle a taxi sign or identification unless licensed as a taxi under the SPSV regulations.

Subsection (4) provides that contravention of this section is an offence.

*Section 24 Forgery and unlawful use of small public service vehicle and driver identification*

Subsection (1) provides that a person cannot forge or alter with intent to use or display any identification, signage, etc. under SPSV regulations.

Subsection (2) provides that a person cannot use or display the identification, signage, etc. of one SPSV vehicle on another vehicle.

Subsection (3) provides that a person cannot use or display identification, signage, etc. for that SPSV driver in respect of another driver.

Subsection (4) provides that it is an offence to contravene this section.

Subsection (5) provides that a licence stands revoked upon conviction of an offence under this section.

Subsection (6) provides that a member of the Garda Siochana can arrest a person without warrant if in the Garda’s opinion an offence is or has been committed under this section.

*Section 25 Regulation of passengers in small public service vehicles*

Subsection (1) provides for the obligations on passengers with regard to their behaviour in taxis.

Subsection (2) provides that any passenger or intending passenger shall comply with any code of passenger behaviour or reasonable request made by the driver of the taxi.

Subsection (3) provides that passengers or intending passengers shall not without permission of the driver consume food or drinks in the taxi.

Subsection (4) provides that a passenger can be asked by the driver to leave the vehicle or not to enter the vehicle in the contravention of subsections (1) or (3) or failure to comply with subsection (2).

Subsection (5) provides that where a person refuses to leave a vehicle upon the request of a driver, the driver may ask a member of an Garda Síochána to remove the passenger.

Subsection (6) provides that it is an offence for a passenger or intending passenger to fail to comply with subsection (1) or (3) or to contravene subsection (2).

## PART 4

### MANDATORY DISQUALIFICATIONS

#### *Section 26 Mandatory Disqualification for holding small public service vehicle driver licences on certain convictions*

Subsection (1) provides for the interpretation of terms used in the Section.

Subsection (2) provides for the mandatory disqualification for holding a licence on conviction of specified offences:

- (a) for life in the case of offences listed in the Schedule Part 1,
- (b) for a specified period in the case of offences listed in the Schedule Part 2.

Subsection (3) provides for the disqualification for holding a licence on conviction of specified road traffic offences set out in this subsection for an additional period of years as specified in the subsection.

Subsection (4) provides for when the commencement of a period of disqualification takes effect under this Section.

Subsection (5) provides that Subsection (2) will apply to persons convicted of a specified offence before and after the commencement of this Section.

Subsection (6) provides that a person while serving a prison sentence cannot make an application to appeal a disqualification under this section.

Subsection (7) provides that where a person is disqualified from holding a licence under this section, an application by the person shall not be considered nor a licence granted, and a licence held by the person stands revoked.

Subsection (8) provides for a person disqualified under this section to apply to an appropriate court to be allowed to apply for a licence or to continue to hold a licence.

Subsection (9) provides that the appropriate court may grant an application made under Subsection (8) where it is satisfied that the person is a suitable person to hold, or to apply for, a licence.

Subsection (10) provides for the considerations of the appropriate court in determining whether to grant or refuse an application under Subsection (8).

Subsection (11) provides for a period of 12 months within which persons with a conviction before the commencement of this Section can make an application to the appropriate court under Subsection (8).

Subsection (12) provides, pursuant to subsection (11), for the suspension of disqualification while an application is pending and the date of commencement of disqualification if the application is to be refused or withdrawn.

Subsection (13) provides for the procedure for an application under Subsection (8).

Subsection (14) provides that for the purposes of Subsections (8) and (12) persons not residing in the State will be considered to be resident in the Dublin Circuit.

Subsection (15) provides that where an application has been made under subsection (2) of section 36 of the Taxi Regulation Act 2003 prior to the commencement of this Part that the Courts decision on the application stands as though made under subsection (9).

Subsection (16) provides that a licensing authority will have regard to a courts decision on an application under Subsection (8) before making its decision whether or not to grant a licence.

*Section 27 Obligation to give licensing authority details of offences*

Subsection (1) provides for the obligation on an applicant or a holder of a licence to inform the licensing authority of a conviction of an offence specified, and by what date.

Subsection (2) makes it an offence to breach the obligation under this section and sets out the penalty on summary conviction for the offence.

Subsection (3) provides for a defence in a prosecution for an offence under this Section that the person took all reasonable steps and exercised all due diligence to comply with the section.

Subsection (4) provides that a person failing to provide information or giving false or misleading information under this section could result in a determination by a licensing authority to refuse an application from that person or suspend or revoke a licence held by that person.

*Section 28 Proof of foreign convictions*

Subsection (1) provides for documentary evidence to be considered in proceedings against a person for an offence under Sections 6 or 7 of this Part, who has a conviction under Section 4(1) in another jurisdiction.

Subsection (2) provides the conditions to be satisfied with regard to the documentary evidence referred to under this Section.

## PART 5

### DEMERIT SCHEME

*Section 29 Definitions (Part 5)*

This Section provides for the interpretation of terms used in this Part.

*Section 30 Demerit Offences*

This section provides that certain specified offences in this Act are demerit offences.

### *Section 31 Endorsement of demerits*

Subsection (1) provides for the number of demerits to be endorsed on the entry of an SPSV licence record in respect of a fixed charge payment for the alleged demerit offence.

Subsection (2) provides for the number of demerits to be endorsed on the entry of an SPSV licence record in respect of a conviction for a demerit offence.

Subsection (3) and (4) provide that where a person is either convicted of a number of demerit offences which were committed on the same occasion, or pays fixed charges in respect of such alleged offences, the number of demerits to be endorsed will not exceed the highest number of demerits which would have applied in respect of any one of the offences in question.

Subsection (5), (6) and (7) provide for the notification to the Authority of the payment of fixed charges for demerit offences or of convictions imposed by the Courts for such offences; notification in the latter case is by the Courts Service. Following receipt of the notification the Authority is required to endorse the relevant entry on the licence with the appropriate number of demerits.

Subsection (8) relates to the endorsement of demerits where that person does not hold an SPSV licence. The subsection provides that in such circumstances, the demerits will be entered in the record once the person is subsequently issued with a licence.

The Table under this Section sets out the demerits in respect of contravention of certain provisions of this Act.

### *Section 32 Period of endorsement of demerits*

This Section provides that the demerits endorsed on a licence record will remain in effect for a period of 3 years from the “appropriate date” prescribed in Section 35 of this Act. At the end of the three-year period, the person concerned will be notified of the removal of the demerits from the licence record.

### *Section 33 Notification to licence holder of endorsement of demerits*

Subsection (1) provides for the notification of a person of the endorsement of demerits, and where appropriate, of the imposition of a three-month disqualification. Where a disqualification is applied, the licence holder must return the licence to the Authority within 14 days of the appropriate date.

Subsection (2) provides that upon a notice under subsection (1) the Authority will cause the entry of the particulars of the notice on the entry in the SPSV licence record.

Subsection (3) provides that non-compliance with a notice under this section is an offence.

### *Section 34 Disqualification by reason of demerits*

Subsection (1) provides that the threshold of demerits for the purpose of disqualification is 8 and that the period of disqualification is 3 months.

Subsection (2) provides that at the end of the period of disqualification under this Section, all of the demerits endorsed on the licence record on the date of the notice issued in relation to the disqualification will be removed.

Subsection (3) provides that Section 12 (*Representations and appeals*) does not apply to a licence suspended under subsection (1).

Subsection (4) provides that suspension under this section does not affect the date of expiry of the licence.

*Section 35 Appropriate date*

Subsection (1) provides that demerits will generally apply from a date 28 days after the date of the notice described in Section 33 relating to demerits.

Subsections (2) to (5) provides for the process and a court order to make further technical provisions in exceptional circumstances to vary the appropriate date, for example, in the case of an appeal against conviction for a demerit offence.

## PART 6

### ENFORCEMENT

*Section 36 Authorised Persons*

Subsection (1) provides for the Authority to appoint persons or classes of persons as authorised persons to carry out specified functions.

Subsection (2) provides for each authorised person to be furnished with a warrant for carrying out specified functions under this section.

Subsection (3) provides for the functions of authorised officers to ensure compliance of licence holders with this Act, a code of practice and that vehicles are in a road-worthy condition.

Subsection (4) provides that an authorised person appointed prior to the commencement of this section under section 49 of the Taxi Regulation Act 2003 continues to be an authorised person under this Act.

Subsection (5) provides that an authorised person may be accompanied by another person who may assist the authorised person in carrying out their functions.

Subsection (6) provides that an authorised officer requires a warrant from a judge of a District Court before entering a private dwelling.

*Section 37 Prohibition on use of unroadworthy or defective vehicle, etc. as small public service vehicle*

Subsection (1) provides the circumstances whereby an authorised officer can require a person in charge of an SPSV vehicle that it not be used or that it requires testing before being used as an SPSV due to it being unroadworthy, having a defect or not meeting SPSV standards.

Subsection (2) provides that an authorised officer can seize and detain an SPSV vehicle and signage, etc. where a request under subsection (1) is not complied with.

Subsection (3) provides that the Authority may make guidelines for the purposes of this section.

Subsection (4) provides that an authorised person must be accompanied by a member of the Garda Síochána in order to seize a vehicle under subsection (2).

Subsection (5) provides that any costs associated with the seizure or detainment of a vehicle under subsection (2) must be paid before it is released and if not paid within 3 months the vehicle can be disposed of.

Subsection (6) provides that any monies accruing to the Authority under this section shall be disposed of in a manner determined by the Authority with the agreement of the Minister and the Minister for Public Expenditure and Reform.

#### *Section 38 Search Warrant*

Subsection (1) provides for the grounds for obtaining from a judge of a District Court a search warrant for an authorised officer to enter a private dwelling.

Subsection (2) provides for the rules regarding the use of the warrant.

#### *Section 39 Prohibition on obstruction of authorised officer*

Subsection (1) provides that obstruction or failing to comply with a request of an authorised officer exercising their functions under this Part is an offence.

Subsection (2) provides that a member of the Garda Síochána can arrest without warrant a person committing an offence under this section.

#### *Section 40 CCTV at taxi ranks*

Subsection (1) provides that the Authority may approve the location and operation by or on behalf of the Authority or by a person appointed under a service agreement to facilitate, at appointed stands:

- (a) monitoring for compliance with the requirements under Part 3, and
- (b) detection and monitoring of offences involving SPSVs.

Subsection (2) provides the terms of the use of cameras, CCTV and other apparatus under this Section.

Subsection (3) provides that the Authority notify on its website notice of the appointed stands under this Section.

Subsection (4) provides the terms under which photographic or other evidence under this Section may be produced in a court in legal proceedings.

Subsection (5) provides that the Garda Commissioner can request access to CCTV or other apparatus and records from such.

Subsection (6) provides for the interpretation of terms used in this Section.

#### *Section 41 Service of notices*

This Section provides for the service of notices on an SPSV licence holder under the Act including where the licence holder is a company

*Section 42 Summary proceedings*

This Section provides that the licensing authority may bring and prosecute summary proceedings for offences under this Act.

*Section 43 Revocation of licence by court consequent upon conviction*

Subsection (1) provides that a court can revoke a licence upon conviction of an offence where it considers the person is unsuitable to hold the licence.

Subsection (2) provides that the Courts Service notify the Authority of any suspension or revocation under subsection (1).

Subsection (3) provides that carrying out SPSV services while a licence is suspended or revoked under subsection (1) is an offence.

Subsection (4) provides that the holder of a licence return the licence to the licensing authority in the case of a suspension or revocation under subsection (1).

Subsection (5) provides that failure to return a licence under subsection (4) is an offence.

Subsection (6) provides that a licence will be returned to a licence holder upon termination of a period of suspension under subsection (1).

*Section 44 Fixed payment offences*

Subsections (1) and (2) provides that an authorised officer can issue a fixed payment notice for specified breaches of taxi regulations and provides for the form and payment of the notice.

Subsection (3) provides that in a prosecution for certain specified offences under this section the onus of proof of payment on foot of a fixed payment notice lies with the defendant.

Subsection (4) provides that different fixed charges can be set by regulation for different offences under this section.

Subsection (5) provides that the Authority may make regulations prescribing any matter in the section.

Subsection (6) provides that the income generated from fixed charges under this section shall be disposed of by the Authority with the agreement of the Minister and the Minister for Public Expenditure and Reform.

*Section 45 Offence — body corporate*

This Section provides for liability with regard to offences under the Act by a body corporate and, where its affairs are managed by its members, in relation to the acts or defaults in connection with its management by its members

## PART 7

### ADMINISTRATION

*Section 46 Service agreements*

Subsection (1) provides that the Authority may enter into service agreements with other persons to carry out specified functions under the Act.

Subsection (2) provides that functions conferred on a person by a service agreement can be performed by the person in his or her own name or on behalf of the Authority as specified in the agreement.

Subsection (3) provides that, in the existence of a service agreement under Subsection (1), the Authority can also carry out the functions relating to the agreement.

Subsection (4) provides that the Authority may at any time withdraw from the terms of a service agreement under this Section.

Subsection (5) provides for the continued operation of the service agreement to confer on and vest specified functions on persons with whom the agreement is made subject to any conditions set out in the agreement.

Subsection (6) provides for the discretionary powers of the Authority in relation to a service agreement.

Subsection (7) provides for the requirement to publish in the *Iris Oifigiúil* notice of the making or withdrawal of a service agreement under this Section.

Subsection (8) provides that this section is in addition to section 22 of the Dublin Transport Authority Act 2008.

#### *Section 47 Provision of services*

Subsection (1) provides that a statutory body can provide services to the Authority enabling it to perform its functions under this Act.

Subsection (2) provides for the interpretation of certain terms under this section.

#### *Section 48 Complaints procedure*

Provides that, including any procedure set up under section 51 of the Taxi Regulation Act 2003, the Authority establish and provide a user-friendly and accessible complaints procedure for SPSV service users, that is published on its website and in printed form.

#### *Section 49 Fees*

Subsection (1) provides that fees in respect of SPSV licensing, award of quality service certification and issue of certificates relating to registers shall accrue to the Authority.

Subsection (2) provides that income from fees shall be applied to meet expenses of the Authority.

Subsection (3) provides that income generated by payments under Subsection (1) will be disposed of by the Authority with the agreement of the Minister and the Minister for Public Expenditure.

#### *Section 50 Service certification*

Subsection (1) provides that the Authority can establish and provide a scheme of certification of quality SPSV service provision.

Subsection (2) provides that the Authority determine the content, design and terms of display of a notice concerning the quality certification.

Subsection (3) provides that with regard to subsection (1) and (2) the Authority consult with the Advisory Committee, the Garda Commissioner and any other relevant body.

Subsection (4) provides that certification under this section can be awarded or removed on the basis of the assessment of performance indicators over time.

Subsection (5) provides that a person or commercial concern that purports to be certified under this section falsely commits an offence.

Subsection (6) provides for the interpretation of certain terms under this section.

*Section 51 Continuance of regulations*

This section provides that regulations made under Section 82 of the Road Traffic Act 1961 in relation to the control and operation of SPSVs and regulations and orders made by the Authority under the Taxi Regulation Act 2003, shall remain in force and can be amended or revoked following commencement of this Act.

*Section 52 Certificates of insurance and requirements to have adequate insurance cover*

This section provides that the Authority may by regulation prescribe the form of insurance certification and under subsection (2) other requirements in respect of insurance of SPSV vehicles. Subsection (3) provides that it is an offence not to comply with regulations made under subsection (2).

*Section 53 Ministerial policy directives*

This section provides for Ministerial policy directions to be issued with regard to the taxi regulations

*Section 54 Performance of functions of Garda Commissioner under Act*

This section provides that functions of the Garda Commissioner can be carried out by members of the Garda Síochána.

*Section 55 Transport strategy*

This section provides that the regulation of the SPSV industry is an objective within the Authority strategic planning process and that the Authority consults with the industry and users in this regard.

## PART 8

### ADVISORY COMMITTEE ON SMALL PUBLIC SERVICE VEHICLES

*Section 56 Advisory Committee*

This section provides for the establishment of the Advisory Committee, for its members and related matters. The Minister will appoint the Committee, chairperson and ordinary members. Members may be nominated from a range of disciplines or interest groups referred to in subsection (4).

*Section 57 Functions of Advisory Committee*

This section provides that the general duty of the Council will be to advise the Commission or the Minister in relation to issues relevant to SPSV vehicles, drivers and dispatch operators. The range of matters in respect of which the Council may provide advice from time to time to either the Commission or to the Minister is set out in subsection (2).

## PART 9

### AMENDMENT OF PART 3 OF ROAD TRAFFIC ACT 2010

#### *Section 59 Amendment of Part 3 of Road Traffic Act 2010*

This Section provides for consequential and other miscellaneous amendments to Part 3 of the Road Traffic Act 2010

## SCHEDULE

### SPECIFIED OFFENCES

#### *Schedule Part 1 Life disqualification*

This schedule sets out the specific offences which can result in disqualification from holding of a licence for life as provided for under this Act.

#### *Schedule Part 2 Disqualification for specified period*

This schedule sets out the specific offences which can result in disqualification for a specified period as provided for under this Act.

#### *Financial Implications*

It is not expected that this Bill will give rise to any financial implication for the Exchequer.

*Department of Transport, Tourism and Sport,  
December, 2012.*