



AN BILLE UM NEAMHÚSAID MÓTARFHEITHICLÍ, 2013
NON-USE OF MOTOR VEHICLES BILL 2013

EXPLANATORY MEMORANDUM

General

The primary purpose of the Bill is to provide for a prospective system of declaring vehicles off the road for motor tax purposes, closing a loophole whereby owners can declare retrospectively that a vehicle has not been in use on the public road, which is unverifiable.

The Bill also contains provision to make the Minister for Transport, Tourism and Sport a licensing authority. Responsibility for the National Vehicle and Driver File (NVDF), which administers motor tax online, was transferred to the Minister for Transport, Tourism and Sport in 2007, while the Minister for the Environment, Community and Local Government remains responsible for motor tax policy. The operational function of the Minister for Transport, Tourism and Sport as a licensing authority for motor tax is not currently recognised in legislation.

The Bill contains provision for transitional financial arrangements following the transfer of the driving licence function from licensing authorities to the Road Safety Authority (RSA).

With the introduction of a plastic card driver licence from January 2013 responsibility for driver licensing transferred from local authorities to the RSA.

The RSA has put arrangements in place for the issuing of a plastic card licence. However, as all elements of the new arrangements are not yet operational, the RSA has made arrangements that local authorities will continue to provide these services for a transitional period, expected to be until September 2013. During this time, all driver licence revenues will continue to be deposited in the Local Government Fund (LGF). The portion of these revenues derived from the increase in driver licence fees that took effect from January will be paid from the Fund to the RSA. The LGF will retain the income from the fees that applied prior to the increase. When the new structures are fully established all driver licence revenue will flow to the RSA.

Provisions

Section 1 contains the short title and provides for a commencement order or orders.

Section 2 explains recurring terms used in the Bill.

Section 3 provides for regulations to remove difficulties in bringing any provisions of the Act into operation. Any such regulation must be made within 2 years of commencement of the relevant provision of the Act and must be approved by both House of the Oireachtas.

Section 4 contains definitions required for the amendments to the Finance (No. 2) Act 1992 being made in sections 5 to 8.

Section 5 makes provision for the Minister for Transport, Tourism and Sport to become a licensing authority.

Section 6 provides, in subsection (a), that the requirement to pay motor tax on a vehicle will not apply where a person furnishes a non-use declaration within ten days of registering a new vehicle or acquiring a second-hand vehicle, or, otherwise, in the month before motor tax or an earlier non-use declaration is due to expire.

The remaining provisions of the section provide for the calculation of arrears of duty at $\frac{1}{10}$ th of the annual rate of duty and to provide for the charging of arrears at the current rate of duty i.e. at the rate applicable when the vehicle licence is applied for, rather than the rate that applied when the arrears were incurred.

Section 7 amends the Finance (No. 2) Act 1992 by inserting a new section 20B providing for the prospective declaration of non-use.

Declarations can be made for a period of between three and 12 months in such form as may be prescribed, including by electronic means (subsection 3 of section 20B).

The declaration must be made in advance of the expiry of a disc or a declaration of non-use, while purchasers of new and second hand vehicles will have ten days from the date of registration or change of ownership to make a declaration. (subsection 5 of section 20B).

A vehicle may be used during the period of a non-use declaration solely for the purposes of bringing to or from a test centre or bringing it to or from a premises for repair where an appointment has been made with an authorised tester subsequent to the repairs being carried out (subsection 6 of section 20B).

A vehicle may be returned to the road prior to the expiry of the declaration of non-use by taxation of the vehicle concerned from the start of the then-current month (subsection 7 of section 20B).

In the case of a new vehicle, the first month of the period specified in the declaration will be the month in which the vehicle is registered (subsection 8 of section 20B).

In the case of transfer of ownership, the notification of transfer of vehicle ownership must have been received in order for the declaration of non-use by the new owner to be processed (subsection 9 of section 20B).

A non-use declaration becomes void if the vehicle is sold (subsection 10 of section 20B).

In the case of a change of ownership, the first month of the period specified in the declaration will be the month in which ownership of the vehicle is transferred (subsection 11 of section 20B).

In cases where a refund is due when the vehicle is being taken off the road, the non-use declaration will be incorporated into the existing refund application (subsection 12 of section 20B).

An administration fee for the making of a declaration may be prescribed (subsection 13 of section 20B).

A fee will not apply to

- vehicles that are exempt from motor tax under legislation,
- vehicles in respect of which a refund is due,
- vehicles to which an annual motor tax rate of less than €119 applies,
- State owned vehicles, and
- vehicles that fall within the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994 (subsection 14 of section 20B).

Section 8 provides for an offence of making a false or misleading non-use declaration with liability to a Class B fine and/or six months imprisonment on summary conviction.

Section 9 provides for transitional arrangements for the move from retrospective to prospective declarations. During a three month period following commencement of this section, those in arrears must pay the arrears and either take out a vehicle licence or make a declaration of non-use. Arrears will continue to be charged at $\frac{1}{12}$ th of the annual rate per month of arrears if paid during the transition period. Those whose vehicles are not on the road must make a retrospective declaration of non-use and either take out a vehicle licence or make a prospective declaration of non-use. Following the end of the transition period, only a prospective declaration of non-use can be made and arrears will be chargeable at $\frac{1}{10}$ th of the annual rate per month of arrears.

Section 10 provides for the same penalty for the making of a false or misleading declaration of non-use as in section 8 to apply to a false or misleading declaration of non-use made as part of an application for a refund.

Section 11 amends the Local Government Act 1998 to provide that the Minister for Transport, Tourism and Sport will pay into the LGF the monies collected from motor tax.

Section 12 provides for transitional financial arrangements following the transfer of the driving licence function to the RSA.

Subsection (a) amends the Local Government Act 1998 to allow payments from the LGF to the RSA.

Subsection (b) deletes the provision whereby the Minister can make payments from the LGF to the Minister for Transport, Tourism and Sport in respect of the issuing of driving licences.

Subsection (c) provides that the cost of administering driving licence services during the transitional period can be considered

when deciding the amount of the general purpose grant to be allocated to local authorities from the LGF.

*An Roinn Comhshaoil, Pobail agus Rialtais Áitiúil,
Aibreán, 2013.*