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**AN BILLE UM THRÁCHT AR BHÓITHRE (UIMH. 2), 2014**

**ROAD TRAFFIC (NO. 2) BILL 2014**

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*Meabhrán Mínitheach agus Airgeadais*  
*Explanatory and Financial Memorandum*





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**EXPLANATORY AND FINANCIAL MEMORANDUM**

**Background**

- The Department of Transport, Tourism and Sport is introducing, as a matter of urgency, a Bill which will make technical amendments relating to the endorsement of penalty points on a person's licence record.
- There are two main matters at issue.

**Issue 1**

- As of 8 December, there is a fixed charge penalty for the offences of using a vehicle without a valid NCT certificate and parking in a dangerous position, with penalty points consequent on payment of the fixed charge. Previously people accused of these offence were required to go court, and received a higher level of penalty points on conviction.
- Section 2(1) of the Road Traffic Act 2002 provides for the endorsement of penalty points on a licence record following payment of a fixed charge. This section expressly exempts from its effect a list of those penalty point offences which are not fixed charges. When the NCT and dangerous parking offences were made fixed charge offences, they should have been deleted from the list of exemptions. Due to an oversight, this was not done.
- The present Bill will amend section 2(1) of the 2002 Act to delete reference to these two offences as being exempted. There will be no implications from this, provided that the correcting legislation is passed this week.

**Issue 2**

- During preparation to address the first issue, a second issue came to light in regard to section 2(1) of the 2002 Act.
- Section 2(1) of the 2002 Act provides the basis on which penalty points can be endorsed on a person's record following the payment of a fixed charge, and originally referred to the fact that this payment of a fixed charge was made under section 103 of the 1961 Road Traffic Act. Section 8(b)(i) of the Road Traffic Act 2014 amends section 2(1) of the 2002 Act by substituting a reference to Section 37

or 44 of the Road Traffic Act 2010 for the reference to Section 103 of the 1961 Act. Sections 37 and 44 of the 2010 Act have not been commenced. Therefore, section 8(b)(i) should not have been commenced on 1 August 2014.

- The effect is that, as of 1 August, 2014 there is a question over whether penalty points endorsed on payment of the fixed charge have in fact been validly endorsed.
- The Bill will address the problem by:
  - Providing a revised version of section 2(1) which will be a sound basis for endorsement of penalty points from the date of passage of the Bill onwards;
  - Providing that penalty points endorsed between 1<sup>st</sup> August and the passage of the Bill following payment of a fixed charge are deemed to have been lawfully endorsed - the Minister is satisfied, on the basis of the advice of the Attorney General, that it is the appropriate approach.
- It is important to emphasise that there is no question over the fixed charge system itself, nor is there any difficulty with the endorsement of penalty points following a conviction in court.
- Another minor matter being addressed in the legislation is providing clarity in relation to a previous ambiguity, namely that penalty points which apply should be those at the time of the offence and not at the time of endorsement, if the points are different. This reflects current practice.
- There are no financial implications for the Exchequer from this Bill.

An Roinn Iompair, Turasóireachta agus Spóirt  
Nollaig, 2014.