



**SEANAD ÉIREANN**

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**AN BILLE UM THEANNTÁIL FEITHICLÍ, 2014  
VEHICLE CLAMPING BILL 2014**

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**

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# SEANAD ÉIREANN

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## AN BILLE UM THEANNTÁIL FEITHICLÍ, 2014 —AN COISTE

### VEHICLE CLAMPING BILL 2014 —COMMITTEE STAGE

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#### *Leasuithe Amendments*

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*\*Government amendments are denoted by an asterisk*

#### SECTION 2

- \*1. In page 7, line 26, to delete “*section 35(a)*” and substitute “*section 33(a)*”.

#### SECTION 13

- \*2. In page 13, line 33, to delete “or”.
- \*3. In page 13, line 35, after “duties,” to insert the following:

“or

- (iv) a vehicle used in connection with the operation of electronic or other apparatus referred to in section 81(1) of the Road Traffic Act 2010 under an agreement in accordance with subsection (7) of that section and which is at a location determined by a member of the Garda Síochána not below the rank of Superintendent.”.

#### SECTION 14

4. In page 14, between lines 14 and 15, to insert the following:

“(2) In prescribing the maximum charges the NTA shall take into account the costs of wrongly parked vehicles at parking places.”.

—*Senator Sean D. Barrett.*

5. In page 14, line 17, to delete “€100” and substitute the following:

“€120 per twenty four hours or part thereof and with a surcharge of €35 for release between 22.00 and 08.00”.

—*Senator Sean D. Barrett.*

6. In page 14, line 18, to delete “€50” and substitute “€150”.

—*Senator Sean D. Barrett.*

[SECTION 15]

SECTION 15

7. In page 15, between lines 16 and 17, to insert the following:

“(3) Statutory bodies shall not impose clamp release charges or relocation charges in respect of unlawfully or wrongly parked vehicles in excess of clamp release or vehicle relocation charges prescribed by the NTA in respect of non-statutory parking places.”.

—*Senator Sean D. Barrett.*

SECTION 16

8. In page 15, line 20, after “practicable” to insert “within two hours”.

—*Senator Sean D. Barrett.*

9. In page 15, line 35, after “owner” where it secondly occurs to insert “and such unauthorised use was notified to An Garda Síochána”.

—*Senator Sean D. Barrett.*

SECTION 17

10. In page 16, between lines 15 and 16, to insert the following:

“(6) The NTA shall also consider complaints from property owners in respect of the costs to them of wrongfully parked vehicles.”.

—*Senator Sean D. Barrett.*

SECTION 20

- \*11. In page 17, line 19, to delete “, subject to *section 21(2) and (3)*,”.

SECTION 21

12. In page 17, between lines 33 and 34, to insert the following:

“(f) examination by the clamping appeals officer of the costs to the property owner of wrongly parked vehicles on premises which are the subject of the appeal.”.

—*Senator Sean D. Barrett.*

13. In page 18, between lines 12 and 13, to insert the following:

“(6) Where the determination of a clamping appeals officer is not to revoke the decision of a parking controller the appellant shall refund to the parking controller such costs incurred by the controller as the clamping appeals officer may direct in the determination.”.

—*Senator Sean D. Barrett.*

- \*14. In page 18, line 18, to delete “the” and substitute “any”.

[SECTION 30]

SECTION 30

\*15. In page 22, between lines 4 and 5, to insert the following:

**“Fixed payment notices**

30. (1) Where an authorised person has reasonable grounds for believing that a person is committing or has committed an offence under *section 9(4)* or *10(4)* he or she may serve personally or by post on the person a notice (“fixed payment notice”) in the prescribed form stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may, during the period of 28 days beginning on the date specified in the notice, make to the NTA at the address specified in the notice a payment of €250 accompanied by the notice, duly completed,
- (c) if the person does not make the payment specified in *paragraph (b)* during the period so specified, accompanied by the notice, duly completed, the person may, during the period of 28 days beginning on the expiration of that period, make a payment as specified in the notice of an amount 50 per cent greater than the amount referred to in *paragraph (b)* accompanied by the notice, duly completed,
- (d) the person is not obliged to make the payment, and
- (e) a prosecution in respect of the alleged offence will not be instituted during the periods specified in the notice and, if the payment specified in the notice is made during the appropriate period, accompanied by the notice, duly completed no prosecution in respect of the alleged offence will be instituted.

(2) Where notice is given under *subsection (1)*—

- (a) the person to whom the notice applies may, during the period specified in the notice, make to the NTA at the address specified in the notice the payment specified in the notice accompanied by the notice, duly made at the appropriate time so specified in relation to the payment,
- (b) the NTA may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it,
- (c) a prosecution in respect of the alleged offence shall not be instituted during the periods specified in the notice, and if the payment so specified is made during the appropriate period, accompanied by the notice, duly completed no prosecution in respect of the alleged offence will be instituted.

(3) In a prosecution for an offence under a provision referred to in *subsection (1)* the onus of proving that a payment made pursuant to a fixed payment notice has been made lies on the defendant.

(4) In any proceedings in respect of an offence referred to in *subsection (1)* a document purporting to be a certificate of receipt of posting or delivery by or on behalf of An Post or another postal service is evidence of the posting or delivery of the fixed payment notice.

[SECTION 30]

- (5) The NTA may make regulations prescribing any matter referred to in this section as prescribed or to be prescribed.
- (6) Income generated by the payment of prescribed fixed payment amounts under this section shall be disposed of in a manner determined by the NTA with the agreement of the Minister and the Minister for Public Expenditure and Reform.”.

**\*16.** In page 24, line 24, to delete “(7) A notice” and substitute “(9) A notice”.

**\*17.** In page 24, line 28, to delete “(8) A person” and substitute “(10) A person”.

**\*18.** In page 24, line 31, to delete “(9) A person” and substitute “(11) A person”.

SECTION 33

**\*19.** In page 26, line 26, to delete “(bb) make” and substitute “(ba) make”.

**\*20.** In page 26, line 33, to delete “subsection (4)(bb)” and substitute “subsection (2)(ba)”.