



An Bille um Thrácht ar Bhóithre agus um Bóithre, 2021
Road Traffic and Roads Bill 2021

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Explanatory Memorandum



**AN BILLE UM THRÁCHT AR BHÓITHRE AGUS
UM BÓITHRE, 2021
ROAD TRAFFIC AND ROADS BILL 2021**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The Bill provides for a number of measures to improve safety on our roads:

- Measures to enable linkage of driver licence records and vehicle records;
- Measures to enable completion of Motor Third Party Liability (MTPL) database;
- Transport Infrastructure Ireland will be empowered to set variable speed limits and use gantry displays for signage in order to manage traffic on motorways;
- Legislation on medical fitness to drive will be revised to align better with EU law;
- Measures to provide for the legal use of powered personal transporters, including scooters;
- Amendments to legal definitions to provide for ebikes;
- Measures to address the anti-social use of scramblers;
- The legislative basis for fixed charge notices issued by traffic wardens will be amended to allow for a ‘third payment option’ on the same lines as that for notices issued by the Garda;
- The Minister will be empowered to extend emergency driver provisions to cover those giving training to emergency drivers;
- The Minister will be empowered to add national codes to driving licences in addition to the EU codes already permitted;
- Motor insurers’ access to penalty point records will be extended to cover disqualifications, and to allow access when a policy is being changed and not only when it is being issued/renewed;
- A new offence will be introduced of making false declarations in application for certain kinds of permits under the Road Traffic Act 1994 – this is intended to address false applications for disabled parking permits in particular;
- Amendments will be made to the regulation of driving instruction to provide criteria for a ‘fit and proper person’ to be an Approved Driving Instructor (ADI).

- A number of minor and technical amendments.

This Bill will have implications for all drivers.

In this Memorandum -

- A reference to “the Minister” is to the Minister for Transport.
- A reference to the Principal Act is a reference to the Road Traffic Act 1961.

Financial Implications - The Bill will not have an impact on revenues.

Transport Infrastructure Ireland is currently engaged in a project to install the necessary signage to allow for variations in speed limits on the M50. This expense has already been incurred and the legislation now proposed is necessary for the project to be put into operation. The Bill therefore does not entail any new expenditure in this area.

Any other administrative adaptations necessitated will be absorbed within current budgets.

PART 1

Preliminary and General

1. Short Title, commencement, collective citation and construction

These are standard provisions.

2. Interpretation

These are standard provisions.

PART 2

Construction of References to Driving Licence Categories

3. Driving licence categories

The categories used for different classes for driving licences are set out in EU legislation, and were amended with effect from 19 January 2013. On that date some categories were relabelled, while others remained the same. For example, category B (cars) remained category B, but what had been category EB (car plus trailer) became category BE. Although the new categories were transposed into Irish driver licensing regulations with effect from 19 January 2013, it has come to the Department’s attention that some references still exist in instruments predating January 2013 which are still in effect and which should be updated. Section 3 will clarify that those references to the older categories still mentioned in law are to be interpreted unambiguously as references to the corresponding newer categories.

PART 3

Information to be Provided with Application for Vehicle Licence

This part addresses matters relating to establishing the identity of the registered owner of a vehicle. Provision is made to allow for the collection of a person’s driver licence number or the Personal Public Service Number (PPSN) when an application is made for a vehicle licence.

The collection of such information will assist An Garda Síochána to identify drivers and to correctly assign penalty points.

The legislation provides that an individual applying for a motor vehicle licence will supply their driver number. Where the individual does not hold a driver number, they will be required to supply their PPSN number.

4. Amendment of Roads Act 1920

Section 4 amends sections 5, 12 and 17 of the Road Acts 1920.

Subsection 4(a) amends section 5 of the 1920 Act by introducing a subsections (1A)-(1C). Section 5 of the 1920 Act states an application for a vehicle licence must be accompanied by certain information ‘with respect to the vehicle or carriage’, which may be prescribed by the Minister. This has been expanded through the new subsection (1A) to specify that the Minister may require in regulations that such applications now be accompanied by the applicant’s driver number, where they hold an Irish driving licence or learner permit; equivalent number where they hold a foreign driving licence; or PPSN number, in circumstances where they do not have a driver number or a foreign licence.

The new subsection (1B) limits the use by the Minister of a person’s PPSN, where it is obtained under (1A), to the performance of certain ministerial functions under the Road Traffic Acts and the Roads Act 1920. These functions are –

- Collection of duty owing on vehicles, i.e. motor tax
- Maintenance of licence records – the collection of driver number, foreign driver number, or PPSN will enable linkage of vehicle ownership records with driver licence records
- Endorsement of penalty points and disqualifications on a driver’s licence record – the new ability to link vehicle ownership and driver licence records will address some cases where it has been difficult to identify the appropriate driver licence record in order to endorse penalty points or disqualifications.

Subsection (1C) will allow the Minister to specify in regulations additional ministerial functions under the Road Traffic Acts, besides those listed in (1B), for which the Minister may use PPSNs received under subsection (1A).

Subsection 4(b) amends section 12 of the Roads Act 1920. Section 12 gives the Minister power to make regulations specifying the information required when applying for a vehicle licence. A new subsection (1B) is being introduced after subsection (1A), to enable the collection of the driver number, foreign driver number or PPSN, as appropriate, in line with the amendments to section 5 of the 1920 Act.

A new subsection 12(1C) limits the use of the PPSN that was provided in the course of obtaining a vehicle licence. The PPSN can only be used for the purposes of paying motor tax, maintaining a licence record, and for endorsing penalty points or a disqualification on a driver licence or learner permit record. This is followed by a new subsection 12(1D), which allows for these provisions to be extended if deemed necessary by the Minister to carry out the functions under the Road Traffic Acts 1961 to 2021 and the Roads Act 1920. As such, subsections 12(1C) and (1D) parallel the provisions of subsections 5(1B) and (1C) inserted by subsection 4(a) of the Bill, as above.

Subsection 4(c) amends section 17 of the 1920 Act by inserting the definitions necessary for the new provisions into the 1920 Act. This is a standard provision.

PART 4

Amendment of Act of 1961

5. Amendment of Act of 1961

Section 5(a) makes two amendments which are intended to facilitate Connected and Automated Mobility (CAM). CAM is an area where a great many technological advances have been made, and, while there is no imminent likelihood of general use of CAM in Ireland in the near future, testing of such vehicles on public roads is a clear possibility. The existing legislation was drafted before CAM was an issue. At this time, and in order to allow for testing, it is prudent to amend certain definitions in the Road Traffic Acts to allow for the testing of autonomous vehicles on public roads. It has to be emphasised that does not represent a comprehensive policy of legislation around CAM – that will take time and we will need to observe developments in the field before it will be clear what legislation is needed.

5(a)(i) adds a definition of ‘autonomous vehicle.’ **5(a)(ii)** amends the definition of ‘driving’ to ensure that a person who is in an autonomous vehicle and monitoring, overseeing and supervising the operation of the vehicle will be deemed to be driving. It is important to be clear that at this point only testing will be involved, and there will always be a person in the vehicle who is overseeing its operation and will be able to intervene and override the autonomous functions if necessary. The current definition of ‘driving’ states that ‘driving’ includes, in relation to a bicycle or tricycle, ‘riding.’ This will be amended to add powered personal transporters (PPTs) as vehicles for which ‘riding’ is taken to be ‘driving.’ This is in line with the amendments in Part 11 of the Bill, which will provide for legal use of PPTs in Ireland.

Section 5(b) substitutes section 22B of the 1961 Act to make a technical amendment. Section 22B was inserted into the 1961 Act by the Road Traffic Act 2010. Section 22B prohibits a person from applying for a driving licence for categories of vehicles for which they already hold a driving licence or learner permit. This prohibition was previously expressed in section 22(5).

This prohibition could have meant that a person who had a current learner permit, and had received a certificate of competency on passing a driving test, would not have been eligible to apply for a full licence until their learner permit expired. The legislation in place prior to 2010 therefore made an exception for this case via section 35(6)(c).

The Bill will add a new subsection 22B(2) to provide for that exemption, so that a holder of a learner permit who has been granted a certificate of competency may apply for a driving licence in that category of vehicle . The exemption will be deleted from its previous location of 35(6)(c) as part of section 5(d) of this Bill, on which see note below.

Section 5(c) introduces a new provision in section 33 of the 1961 Act, which will require a person applying for a driving test to provide their Personal Public Service Number (PPSN). This is being added in order to verify the candidate’s identity.

Section 5(d) makes technical amendments. Section 35(6) of the Road Traffic Act 1961 provides for certain provisions of that Act to apply to learner permits in the same way that they apply to driving licences. 35(6) also provides 3 exceptions to this equivalence. The Bill will now remove reference to section 22(2), (4) and (5) from the list of provisions which are to apply to learner permits as for licences. This is being done because the references are redundant, in light of amendments made in 2010, which

revised section 22 and introduced new sections 22A and 22B into the 1961 Act.

Paragraph 35(6)(c) is also being deleted – it is being replaced via the amendment to section 22B referred to above under section 5(b) of the Bill. This necessitates small changes to sections 35(6)(a) and (b) so that (a) ends with ‘and’ and (b) ends with a full stop.

Section 5(e) amends section 38(2)(a)(i), which provides that a person convicted of driving without a valid driving licence where they held a driving licence which had expired by less than 12 months is subject to a lesser fine of €1,000, which is half the regular fine of €2,000. The period for which this reduction in fine applies is being reduced from 12 months to 3 months in the present Bill. This provision does not apply to learner permit holders.

This is being done because the licensing system now sends reminders to holders when renewal is due, and it is therefore reasonable to expect people to have renewed a licence in time.

Section 5(f) contains a number of amendments to section 42 of the 1961 Act.

Paragraph 5(f)(i) will add new provisions relating to the information printed on driving licences and learner permits under section 42 of the Principal Act. EU law provides for driving licences to contain certain information designated by standard EU-wide numeric codes. As EU law relates only to full licences and not to learner permits – which are a purely national system – the Minister will now be empowered to add these codes to learner permits.

EU law also allows for Member States to create additional numerical codes to be used on licences they issue. This amendment will empower the Minister to add such codes.

Section 42(2) will therefore have two additional paragraphs –

- (q) to include harmonised Community codes on learner permits; and
- (r) to include national codes along with restrictions on the validity of a licence, or matters disclosed by the licence holder, on the driving licence.

Paragraph 5(f)(ii) will revise legislation on medical fitness to drive. The current provisions on medical fitness to drive were devised before EU membership. They create a legislative architecture in which provisions on medical fitness to drive are dependent on provisions for a ‘certificates of fitness’ – a type of document which is relatively rarely required. While this architecture has worked up to a point, it is not optimal for application of EU legislation on medical fitness to drive. The EU now sets medical fitness standards, and Member States may not issue licences to those who do not meet those standards.

Section 42(3) will therefore be followed by new additional subsections providing the Minister with powers to make regulations in relation to minimum standards of physical and mental fitness of those applying for a driving licence or learner permit, the classes of people required to produce a medical report, and the form of the medical report. The Minister may also publish guidelines to be followed by those carrying out such medical examinations, and the Bill makes it an offence for anyone to certify falsely that a person is medically fit to drive.

Section 5(g) will amend section 53, which is the basis for the offence of dangerous driving, in two ways. First, it will delete reference to the offence

involving driving ‘in a public place.’ Second, it will amend reference to ‘condition and use of the place’ to ‘condition and use of the place in which it is driven.’ These amendments are being made in order to ensure that prosecutions for dangerous driving may be taken against those who use scramblers or other similar vehicles in a dangerous way in any location. This is part of the Government’s commitment to address the dangerous and anti-social use of scramblers and similar vehicles, on which see also sections 5(n) and 11(b).

Section 5(h) makes amendments in relation to motor insurance.

Section 56 of the Principal Act relates to the requirement for persons using a mechanically propelled vehicle in a public area to have an approved policy of motor insurance in place.

The present Bill inserts a new section 56A after section 56, setting out in detail the information to be provided to the vehicle insurer by applicants for motor insurance. This is being done to enable insurers to comply with the Motor Third Party Liability (MTPL) database requirements (set out in section 5(k) below). It will be an offence for a vehicle insurer to issue a policy to an applicant who has not provided the required information, with provision for liability on summary conviction to a class C fine.

The information to be provided to the vehicle insurer in the case of an individual policy includes, for all insured under the policy, their names and addresses, dates of birth, and vehicle registration numbers, as well as the driver number in cases where a person holds an Irish driving licence or learner permit, and an equivalent unique identifier where the person holds a foreign licence. In the case of fleet insurance policies, the fleet owner must provide the classes of persons, and number and classes of vehicles to be insured. Any changes to the vehicles in the fleet must be notified by the policy holder to the Motor Insurers’ Bureau of Ireland, i.e. to the MTPL database.

There is also provision for the transitional arrangements immediately after the commencement of this section, made in a new section 56B.

Section 5(i) amends the definition of ‘vehicle insurer’ which is set out in section 58 of the 1961 Act. This is being done to update the cross-references in the definition. Reference to a ‘syndicate’ is also being dropped from the definition. In the past, this referred to Lloyds, but the current operation of Lloyds via Lloyds Europe is encompassed in the new definition.

Section 5(j) amends subsection 78(1) of the 1961 Act. This is the subsection which requires vehicle insurers operating in the State to be members of the Motor Insurers’ Bureau of Ireland. The amendment is linked to the updating of the definition of ‘vehicle insurer’ in section 5(i) above, and will clarify by up-to-date reference the nature of insurance businesses affected.

Section 5(k) substitutes section 78A of the Principal Act, which creates a requirement for motor insurers to provide information to be contained in a database of all motor insurance policies in the State (the Motor Third Party Liability (MTPL) database), in order to assist with the identifying of uninsured vehicles on our roads, and to assist in detecting disqualified drivers who are attempting to continue to drive.

Section 78A of the Principal Act was originally inserted into that Act by the Road Traffic Act 2010. At that time, the project to develop a motor insurance database was at an early stage, and it became clear over time that the legislation was not sufficient to provide the necessary legislative underpinning for the database. This led to further amendments in the Road Traffic Acts 2016 and 2018. The project is now at a stage of clarity where it

is possible to identify the appropriate legislative requirements in full. This will be done through the substitution of section 78A in the present Bill.

The new section 78A will require the Motor Insurers' Bureau of Ireland (MIBI) to maintain a database of all motor insurance policies held in the State. Motor insurers will be required to provide to the MIBI, within 5 working days after a policy is issued, cancelled or amended, the policy number and, for all insured under the policy, their names and addresses, dates of birth, and driver numbers. Vehicle registration numbers will have to be provided for all vehicles covered by the policy. In addition, in the case of fleet insurance policies, the fleet owner must provide the classes of persons, and number and classes of vehicles to be insured. The introduction of a new section 56A into the 1961 Act by the amendment at section 4(f) above is connected to this, with the new 56A intended to ensure that vehicle insurers will be able to collect the information necessary to fulfil their obligations under the revised 78A.

The MIBI will be empowered to make information on the database available to the Minister (in respect of the National Vehicle and Driver File), An Garda Síochána (for the enforcement of road traffic legislation), the National Transport Authority (for the purposes of its functions in relation to the regulation of taxis). Each vehicle insurer will be able to see only the information they themselves have provided, so that they can verify and if necessary amend it. The Minister will be empowered to make Regulations to make the database available to other recipients, and may also make the database available to the recipients above for other purposes.

Insurers will also be required to notify cancellation of a policy within five days.

The MIBI will be required to submit a report annually to the Minister in relation to the operation of the database.

Section 5(1) amends section 95 of the Principal Act. Transport Infrastructure Ireland (TII) is currently working on a project to manage traffic flow on the M50 which will require the power to vary speed limits on sections of the network. This will enable TII, for example, to slow traffic approaching an area where there has been a traffic build-up, in order to allow the build-up to disperse. TII will also need to be able to close lanes temporarily to manage traffic flow. Section 4(h) will give TII the necessary powers to provide signage in relation to these temporary speed limits, as well as lane closures. The new powers will apply on national roads and motorways, so that similar measures may be undertaken on other national routes besides the M50 if appropriate.

It should be noted that, while TII now incorporates the National Roads Authority (NRA), legislative references to specific powers of this type are still to the NRA rather than TII.

In the definitions under section 95(1), "motorway" and "national road" are being inserted and are defined as having the same meaning as in the Roads Act 1993.

The NRA is to be provided with powers to erect information and warning signs, and also, at the request of the Garda Commissioner, regulator signs, on motorways, as well as transferring, altering, or removing signs.

The NRA will be permitted, after 21 days' notice to the owner/occupier of land adjacent to a motorway, to enter the land and provide traffic signage as necessary. This is a normal power related to provision of signage, which already exists for local authorities and needs to be provided to the NRA in the context of the new arrangements.

There are a number of technical amendments in this section to ensure clear distinctions between road authorities (i.e. local authorities) on the one hand and TII/NRA on the other.

Section 5(m) will insert a new section 95A into the 1961 Act, under which the Minister may designate a national road or part thereof to be within the remit of the NRA for the purposes of section 95 and of section 9 of the Road Traffic Act 2004. Section 95, amended by section 4(h) above, provides powers to erect traffic signage, and section 9, amended by section 9 of the present Bill as below, provides powers to set 'special speed limits' on roads differing from the default speed limits for given classes of roads.

The effect of the new section 95A is to allow for possible future use of the new TII/NRA powers for management of traffic under section 95 of the 1961 Act and under section 9 of the 2004 Act on national roads or parts of national roads in the future.

Section 5(n) will insert a new section 109A into the 1961 Act. This section will create a number of Garda powers to deal with a situation where a vehicle is being driven dangerously in any place. These powers are being provided in the context of the Government commitment to address the danger posed by anti-social use of scramblers and other similar vehicles.

The new section 109A will empower the Garda, in the circumstances in question, to stop the vehicle, obtain name, address, and date of birth of the driver or user of the vehicle, to exit or dismount the vehicle, to leave the location, and to seize, remove, store and dispose of the vehicle. The Garda will also be empowered to enter the curtilage of a dwelling in order to act on this section.

Failure to comply with a Garda requirement or impeding the Garda in the course of their duties under this section will be made an offence. The penalty for such offence will be a class A fine and/or up to 6 months in prison.

The Garda will be empowered to dispose of a vehicle seized under this section after 2 months. Within that period, a person may apply to a district court for return of the vehicle. The court shall direct the return of the vehicle if it was being used at the time of seizure without the owner's consent, or if the court is satisfied that the owner will not drive it or allow it to be driven in a dangerous manner.

See also sections 5(g) and 11(b) on scramblers.

Section 5(o) amends section 115 of the Road Traffic Act 1961, which provides penalties for making false declarations when required by provisions of the Road Traffic Acts, or by regulations made under section 34 of the Taxi Regulation Act 2003, to provide particulars on making application for a variety of licences, permits, or similar. The Bill will amend section 115 to allow for proceedings relating to offences under the section to be instituted within 2 years from the date on which the offence was committed, as opposed to the present 1 year. This is being done because An Garda Síochána have indicated that the period of 1 year often proves inadequate in this type of case.

PART 5

Driving Instruction

Driving instruction for reward is provided for under section 18 of the Road Traffic Act 1968, and regulations made thereunder. In accordance with the regulations, the Road Safety Authority is now responsible for approving driving instructors and maintaining a register of Approved

Driving Instructors (ADIs). The present amendments will update the legislation, placing the RSA's role in the Act rather than in regulations. It will also provide for the concept of a 'fit and proper' person to be a driving instructor, on similar lines to the provisions for taxi drivers under Part 4 of the Taxi Regulation Act 2013 and the related schedule of the 2013 Act. This means that people with certain types of criminal conviction will not be eligible to be ADIs.

6. Amendment of Road Traffic Act 1968

Section 6(a) is a technical amendment to section 6 of the 1968 Act, consequential on amendments being made in the Bill. The 1968 Act currently has a Schedule, and section 6 of the 1968 Act refers to it as 'the Schedule.' As section 6(e) of this Bill will be inserting a second Schedule into the 1968 Act, we will be renaming the existing Schedule as 'Schedule 1' via section 6(d) of the Bill. It is therefore necessary to amend the reference in section 6 of the 1968 Act to refer to 'Schedule 1' rather than 'the Schedule.'

Section 6(b) makes a series of amendments to Section 18 of the 1968 Act.

Section 6(b)(i) inserts a new subsection (1B) into section 18 to state for the first time in an Act, rather than regulations, that responsibility for licensing and registration of driving instructors rests with the Road Safety Authority.

Section 6(b)(ii) makes a number of amendments to subsection (2) of section 18. Subsection (2) set out details of what regulations made by the Minister under section 18 may cover.

- (I) – amends subsection 18(6)(2)(a) of the 1968 Act to clarify that, in addition to revocation and suspension of a driving instructor licence, the regulations may cover subsequent surrender or return of the licence.
- (II) – makes three amendments to subsection 18(6)(2)(aa) of the 1968 Act – amendments (A) and (B) are technical amendments to add reference to ADI cards as well as plates and badges, while (C) clarifies that regulations relating to 'withdrawal' of an ADI licence may also cover its subsequent surrender or return. (C) therefore parallels the amendment to subsection (2)(a) made under 6(b)(ii)(I) of the Bill above.
- (III) – a technical amendment to include references to ADI cards in subsection 18(6)(2)(aaa) of the 1968 Act, similar to the amendments above under section 6(b)(ii)(II)(A) and (B), and (VII) below, of the Bill.
- (IV) – substitutes subsection 18(6)(b) of the 1968 Act. This is being done to expand the coverage of this subsection. Currently, it allows for regulations to set out the standards to be met by driving instructors. The expanded version will cover this and related issues, i.e. tests to be passed and courses to be undertaken in order to become and remain an ADI.
- (V) – inserts a new paragraph (cc) into subsection 18(6)(2) of the 1968 Act. This will specify that regulations may provide for the form and content of a register of driving instructors, and for access to that register.
- (VI) – inserts new paragraphs (ee) and (ef) into subsection 18(6)(2) of the 1968 Act. There will allow regulations to provide, respectively, for notification to the RSA by an instructor where a

person has completed a training course with them, and the transfer of information between ADIs and the RSA.

- (VII) – a technical amendment to include references to ADI cards in subsection 18(6)(2)(k) of the 1968 Act, similar to the amendments above under section 6(b)(ii)(II)(A) and (B), (III) and (IX) of the Bill.
- (VIII) – this inserts a new paragraph (kk) into subsection 18(6)(2) of the 1968 Act. This will specify for the sake of clarity that regulations may include test of ADIs via observation of their teaching. This is something already done, but it is considered better practice to specify it in the Act.
- (IX) – a technical amendment to include references to ADI cards in subsection 18(6)(2)(l) of the 1968 Act, similar to the amendments above under section 6(b)(ii)(II)(A) and (B), and (III), and (VII) of the Bill.
- (X) – inserts a new paragraph (ll) into subsection 18(6)(2) of the 1968 Act. The effect of this will be that regulations made under this section may provide for the return of expired licences, cards and badges issued under regulations made under the section.
- (XI) – amends paragraph (o) of subsection 18(6)(2) of the 1968 Act. This is a technical amendment, to replace a reference to ‘subsection (8)’, which is an error (section 18 currently has only 7 subsections), with a reference to ‘subsections (8) and (9)’. This is being done because the Bill, in section 6(b)(iii) below, is adding new subsections (8) and (9) to section 18 of the 1968 Act, and reference to this new subsection as well as to subsection (8) is appropriate in this context. The error arose because, in section 85 of the 2010 Act, provision had been made to substitute a new version of subsection (7) and a insert a new subsection (8). This provision was never commenced, and in section 5 of the Road Traffic (No. 2) Act 2011 a new version of subsection (7) was introduced, leaving the reference to ‘subsection (8)’ in paragraph (o) without a reference point.

Section 6(b)(iii) inserts new subsections (8) and (9) into subsection 18 of the 1968 Act. These amendments are being made in conjunction with the provisions being introduced into the 1968 Act by section 6(c) and (d) of the Bill, below, relating to convictions for offences. Under the new subsection (8), an applicant for a licence to be a driving instructor who is convicted of an offence under subsection 18(7), i.e. an offence of contravention of regulations made under section 18, will be barred from holding a driving instructor’s licence for a period prescribed in the regulations. Regulations will be able to specify different periods of such prohibition in relation to different offences under the regulations.

The new subsection (9) will provide that where the holder of a driving instructor’s licence is convicted under subsection (7), i.e. of an offence under regulations made under section 18, their licence shall be suspended or revoked, according to the regulations, for a period set out in the regulations for that offence. In practice, this means that regulations can specify that where an ADI is convicted of particular more serious offences under subsection (7) their licence is revoked and in other cases it is suspended, and for how long in each case depending on the offence.

Section 6(c) inserts a new section 18A into the 1968 Act. This new section will provide that persons with convictions for certain offences will be barred for life from being licensed as a driving instructor, while certain

other types of conviction will lead to a temporary bar on being a driving instructor. The specific types of conviction concerned will be set out in a new 'Schedule 2' which is being inserted into the 1968 Act by section 6(e) of the Bill.

The provisions of the new section 18A are as follows –

Section 18A(1) - will require any applicant for a driving instructor's licence, or any current holder of such a licence, to inform the RSA in its capacity as licensing authority of any conviction they have under provisions listed in the new Schedule 2.

Section 18A(2) - provides that a person convicted of an offence under provisions listed in Part 1 of Schedule 2 will be barred for life from holding a driving instructor's licence.

Section 18A(3) – provides that a person convicted of an offence under provisions listed in Part 2 of Schedule 2 will be barred from holding a driving instructor's licence for 3 years, subject to subsection 18A(4) below.

Section 18A(4) – where a person is convicted of an offence under provisions listed in Part 2 of Schedule 2 is sentenced to a term in prison for that offence, the 3-year period of their ban from holding a driving instructor's licence referred in subsection (3) of section 18A above will be extended by the term of that imprisonment.

Section 18A(5) – provides that, where a person is disqualified for holding a driving licence for a period in consequence of conviction for an offence under provisions listed in Part 3 of Schedule 2, they will be barred from holding a driving instructor's licence for that period of disqualification and an additional 3 years.

Section 18A(6) - provides that the notification to the licensing authority required under section 18A(1), i.e. notification to the licensing authority that a person has a conviction under a provision listed in Schedule 2, should be made (a) by an applicant for a driving instructor licence at the time of application, and (b) by the holder of a licence, within 3 months of the conviction, or within 28 days of the end of the period in which they can appeal, or the withdrawal or rejection of their appeal, whichever is later.

Section 18A(7) – lists the contents to be included in a notification under section 18A(1).

Section 18A(8) – provides that the licensing authority shall not issue a driving instructor's licence to a person barred under this section from holding such a licence, and that any such licence already held by a person barred under this section from holding a licence stands revoked.

Section 18A(9) – provides that failure to notify the licensing authority when required under this section is an offence, as is providing false or misleading information in such a notification.

Section 18A(10) – these are technical provisions defining the use of terms in the section.

Section 18A(11) – provides that references in the section to offences specified in Schedule 2 include reference to offences of this type committed in another jurisdiction, where they would also be offences under Irish law. The means that, by way of example, violent offenders or sex offenders who were convicted of crimes in

other jurisdictions but had no convictions in Ireland would still be barred from becoming driving instructors.

Section 6(d) is a technical amendment. There is currently a Schedule in the 1968 Act. As the Bill is inserting a second Schedule into the 1968 Act via section 6(e) of the Bill, below, section 6(d) renames the existing Schedule as ‘Schedule 1.’

Section 6(e) inserts a new ‘Schedule 2’ into the 1968 Act. This schedule is tied to the new section 18A being inserted into the Act by section 6(c) of the Bill, and lists offences that will lead to a person being barred from holding a driving instructor’s licence, either for a period or for life.

Schedule 2 is divided into three Parts.

Part 1 lists those convictions which will lead to lifetime ban on being a licensed driving instructor (see note above on section 6(c) of the Bill, new section 18A(2) being inserted into the 1968 Act). These offences (with item numbers in the Part) are –

Common Law offences of (1) murder and (2) rape

International offences relating to (3) genocide, war crimes, and crimes against humanity; and (4) Geneva Conventions relating to war wounded, prisoners of war, and treatment of civilians in wartime (see below on Part 2 item 22 of Schedule 2 for lesser breaches of the Geneva Conventions)

Sexual offences of (5) use of threats, fraud or drugs to obtain sex, (6) incest offences, (7) sexual assault, aggravated sexual assault, or felony rape, (8) sexual offences against the mentally impaired, (9) sexual offences committed outside the State, (10) child trafficking and pornography offences, (11) sexual offence against a minor under the age of 15, (12) sexual abuse of a person with mental disability or illness.

Torture offences, including (13) committing torture, attempting or conspiring to commit torture, or obstructing or impeding the arrest of another person for torture, and (14) a range of terrorist offences.

Part 2 lists those convictions which will lead to a ban on being a licensed driving instructor for a period of 3 years, with this period beginning after a prison sentence, where one is imposed (see note above under section 6(c) of the Bill, new provisions 18A(3) and (4) being inserted into the 1968 Act). These offences (with item numbers in the Part) are –

The Common Law offence of (1) manslaughter

Offences against the person of (2) assault with intent to cause bodily harm or assaulting or threatening to assault a peace officer, and (3) non-fatal offences against the person with exception of assault, assault or threat of assault with a syringe, and assault using blood or a similar substance such as to cause fear of infection.

Sexual offences of (4) transporting or arranging transport for a person in or out of the State in order to commit a sexual offence, (5) child pornography offences, (6) child cruelty and causing or encouraging sexual offences against children, (7) sexual offence against a minor aged under 17, (8) child exploitation offences and offences by persons in authority against those who are mentally impaired.

Certain human trafficking offences including (9) trafficking of persons and attempting to pressure persons trafficked into prostitution

Theft and fraud offences, including (10) damage to property with intent to endanger life or with recklessness as to risk to life, threat to damage property with risk to life, and possession of anything with intent to use it to damage property in a way likely to endanger life, and (11) aggravated burglary and robbery.

Firearms offences, including (12) illegal possession, use and carriage of firearms, and possession of firearms with intent to endanger life, (13) use or threat of a firearm during vehicle theft, use of a firearm to resist arrest, to escape lawful custody, or to assist in the escape of a person in lawful custody, and (14) reckless discharge of firearms, and offences involving knives and other dangerous items.

Unlawful taking of a motor vehicle (15).

Public order offences, including (16) riot, violent disorder, affray, blackmail, extortion, and (17) reckless endangerment of children.

Offences in relation to aircraft and vehicles, including (18) unlawful seizure of an aircraft, (19) various acts of violence endangering an aircraft, and (20) carrying firearms with criminal intent.

Offences against the State (21), including obstruction of the performance of the roles of any branch of Government, the President, or the military or law enforcement, or inciting officials of the State to fail to perform their duties.

International offences, being (22) lesser breaches of Geneva Conventions relating to war wounded, prisoners of war, and treatment of civilians in wartime (see above on Part 1 item 4 of Schedule 2 for serious breaches of the Geneva Conventions); and (23) offences against UN workers, premises and vehicles, and related offences.

Explosives offences, including (24) causing explosions, planning or conspiring to cause explosions, and possession of explosives with intent to endanger life or property

Maritime security offences, including (25) hijacking a vessel, crimes against persons or property on a vessel, placing of dangerous devices or substances on a vessel with intent to do damage, endangering a vessel by false communications, and threatening or coercing a person to do any of the damage referred to, with this applying in relation to actions against any Irish ship, or an Irish citizen on a non-Irish ship.

Incitement to hatred (26).

Part 3 lists those convictions for which a person, if also disqualified for holding a driving licence, will be barred from holding a driving instructor's licence for a period of 3 years after the expiry of the driving licence ban (see note above under section 6(c) of the Bill, new provision 18A(5) being inserted into the 1968 Act). These offences (with item numbers in the Part) are all offences under the Road Traffic Acts, consisting of –

Item (1) Careless driving

(2) Dangerous driving

(3) Intoxicated driving offences

(4) Intoxicated offences while in charge of a mechanically propelled vehicle

(5) Offences related to refusal or failure to provide an evidential specimen for intoxicant testing when required

Accomplices – Schedule 2 declares at the end that the periods of being barred from being a driving instructor apply to accomplices in the offences as well as to the offender.

PART 7

Amendment of Act of 1975

This part amends the **Local Authorities (Traffic Wardens) Act 1975**. These amendments will bring the regime for fixed charge notices issued by traffic wardens into line with the regime for fixed charge notices issued by An Garda Síochána under Part 3 of the Act of 2010. A particular effect will be that there will now be a so-called ‘third payment option’ for fixed charge notices issued by traffic wardens, meaning that people who do not pay the fixed charge after 28 days, or the charge plus 50% after a further 28 days, and who then receive a summons to court, will have a third and final opportunity to pay the charge plus 100% issued along with the summons. If they pay at that point, court proceedings will be discontinued.

7. Fixed Charge Offences

Section 7 substitutes section 3 of Act of 1975, which sets out provisions applying to certain offences relating to vehicles.

Section 3 of the 1975 Act defines the offences for which a traffic warden may issue a fixed charge notice. The offences in question are not being changed, although the wording and some cross-references are being updated. The existing text of section 3 refers to the application of ‘this section’ in relation to these offences, because the relatively limited detail regarding procedures relating to fixed charge notices issued by traffic wardens in current legislation is set out entirely in the old section 3. The new section 3 will refer to the application of sections 3A to 3H, which are being inserted by section 6 of the Bill and will set out in greater detail the rules to apply to fixed charge notices issued by traffic wardens.

8. Insertion of new sections 3A to 3H in Act of 1975

Section 8 inserts new sections 3A to 3H into the Act of 1975. These new provisions will mirror provisions in the Road Traffic Act 2010 for fixed charge notices issued by the Garda Síochána, with divergences from those provisions where appropriate.

The **new section 3A** sets out the provisions for local authority traffic wardens to issue fixed charge notices (FCNs). This section parallels section 35 of the Road Traffic Act 2010, which deals with service of fixed charge notices by the Garda. The actual method of issue of the notice by traffic wardens is not being changed and will continue to be (a) service in person or by post on the person identified as committing the offence, where they can be identified; (b) service on the registered owner; or (c) affixing the notice to the vehicle. This is set out in subsection 3A(1), which reflects the existing provisions of subsection 3(2) of the 1975 Act, while subsection 3A(2), which prohibits prosecution unless a fixed charge notice has been served and has not been paid in the time specified, reflects the existing subsection 3(2A) of the 1975 Act as well as section 35(2) of the 2010 Act.

The new section 3A(3) gives further details of services of fixed charge notice on registered owners of vehicles, and is analogous to section 35(3) of the 2010 Act and deals with details of service of the notice, while 3A(4) reflects section 35(6) in relation to cases where the registered owner was not using the vehicle at the time of the alleged offence. Section 3A(5) and (6) replicate section 35(7) of the 2010 Act in relation to notification of who was driving, and section 3A(7) deals with cases where the registered owner is not an individual, on the lines of section 35(8) of the 2010 Act.

Finally, section 3A(8) requires the sending of a fixed charge notice to a person who has been identified as the driver or user of the vehicle by the registered owner within 28 days. This mirrors the provisions of section 35(9) of the 2010 Act.

Section 3B details the prescribed form of the fixed charge notice, and this new section provides that drivers who have committed an offence under the section, who do not avail of their first two opportunities to pay a fixed charge, will have a third and final opportunity to pay when they receive a summons. This section reflects section 36 of the Road Traffic Act 2010.

Subsections 3B(1)-(3) reflect the corresponding subsections of section 36 of the 2010 Act. The crucial implication for the 1975 Act is that, under the new subsection 3B(2)(e), a person who has not paid a fixed charge notice issued by a traffic warden within 56 days and who has been summoned to court, will now receive a final chance to pay the fixed charge plus 100% no later than 7 days before the scheduled court appearance. If they do this, court proceedings will be discontinued. This 'third payment option' has existed for Garda fixed charge notices since the commencement of the relevant Road Traffic Act 2010 provisions in 2017 and is now being added to the procedures for fixed charge notices issued by traffic wardens.

Section 3C sets out the conditions under which payment of fixed charge can be made. These parallel the payment provisions in section 37 of the Road Traffic Act 2010.

Section 3D sets out that in a prosecution for a fixed charge offence it shall be presumed, until proven otherwise that the notice has been serviced in person by post and that no payment has been made. The presumptions here parallel those in section 38(1) of the 2010 Act. Remaining provisions in section 38 are not deemed appropriate or necessary in the case of the fixed charge regime for traffic wardens.

Note that the provisions of section 39 of the 2010 Act are not being replicated here. Section 39 allows the Minister to make certain regulations connected to section 38(3) of the 2010 Act, and section 38(3) is not being reflected in the present Bill. Provisions analogous to those of section 39 are therefore not required.

Section 3E sets out the offences in relation to handling and receiving fixed charge notices. It replicates the provisions of section 40 of the Road Traffic Act 2010, which will now apply to fixed charge notices issued by traffic wardens.

Section 3F empowers the Minister to set fixed charges in regulations, and to set different charges for different classes of vehicle or for offences committed in different areas. This parallels the provision of section 41 of the 2010 Act.

Sections 42 and 43 of the 2010 Act are not reflected here as they relate to matters not relevant for inclusion in the 1975 Act.

Section 3G sets out provisions for payment when a summons in respect of a fixed charge offence has been served. This parallels section 44 of the 2010 Act. It is this section which will provide for a 'third payment option' for fixed charges notices issued by traffic wardens, in line with that for fixed charge notices issued by the Garda under the 2010 Act. If a person does not pay a fixed charge within 56 days, and is summonsed to court, a 'section 3G notice' will be issued with the summons, allowing people a chance to pay the fixed charge plus 100% not later than 7 days before the date of the court appearance. If they do so, the court proceedings are discontinued. This is identical to the procedure for Garda fixed charge notices and what is called 'a section 44 notice' for Garda notices under the 2010 Act.

There are two substantive differences between section 3G of the Bill and section 44 of the 2010 Act. First, section 3G(3) does not contain a reference to penalty point offences – section 44(3) does – as traffic wardens do not issue notices for penalty point offences. Second, section 44(10) of the 2010 Act was ruled unconstitutional in 2019 and is therefore not replicated here.

Section 3H sets out definitions of “fixed charge” and “fixed charge notice” for the purposes of the 1975 Act.

Section 9. Amendment of section 4 of Act of 1975

Section 9 amends section 4 of the 1975 Act in three ways. **Section 9(a)** amends section 4(1) of the 1975 Act to increase the fine for obstructing a traffic warden in the course of their duty from €1,000 to a class C fine (maximum €2,500). This fine had not been raised since 2006. **Section 9(b)** is a consequential amendment to section 4(2) of the 1975 Act, and will remove cross-references to section 3 which are no longer appropriate or required in light of the other amendments to the 1975 Act being made in the Bill. **Section 9(c)** increase the fine for refusal or failure to provide their name and address when required under section 4, or for providing false or misleading information. As with the fine for obstructing a traffic warden, this will increase from €1,000 to a class C fine.

Section 10. Amendment of section 5 of Act of 1975

Section 10 is a consequential amendment of section 5 of the 1975 Act, and updates cross-references to other provisions in the 1975 Act to reflect the amendments made above.

PART 7

Amendment of Act of 1994

This part amends the Road Traffic Act 1994 with the creation of a new offence designed to tackle fraud in relation to disabled parking permits; new regulation-making powers in relation to prohibitions on use of certain types of vehicles in certain locations; and amendment to Garda powers to detain vehicles.

11. Amendment of Act of 1994

Section 11(a) amends section 35 of Act of 1994, which sets out a ministerial power to make regulations for general control of traffic and pedestrians. Section 11 inserts new subsections 8, 9 and 10 into section 35, in order to allow for prosecution of fraud in relation to disabled parking permits.

The new section 35(8) will make it an offence to provide false information in relation to regulations made under section 35(2)(m), (s), or (t). These are regulations on prohibitions or restrictions on parking, exemptions from regulations for certain classes of vehicles and the identification of such vehicles, and the issue of permits related to parking exemptions.

Section 35(9) will impose a Class C fine, imprisonment for up to 6 months, or both, for offences under section 35(8), while section 35(10) will allow for cases to be taken within two years of the offence.

Section 11(b) inserts a new section 35A into the 1994 Act. This new section will empower the Minister to make regulations prohibiting or restricting the use of certain vehicles or classes of vehicles. Different regulations may be made in respect of different classes of vehicles, and in respect of different circumstances and places.

This new power is part of the Government commitment to address the dangerous and anti-social use of scramblers and other similar vehicles.

The Minister will be able under this power to prohibit or restrict the use of certain classes of vehicle in certain types of places. This will allow flexibility in terms of addressing misuse of different types of vehicle in different types of location. It will be an offence to breach the regulations concerned. The penalty will be the general penalty under the Road Traffic Acts, namely a fine of up to €1,000 for a first offence, up to €2,000 for a second or subsequent offence, and up to €2,000 and/or up to 3 months in prison for a third or subsequent offence within a 12-month period.

These regulations should not be seen in isolation, but taken together with the Garda powers of seizure and disposal of vehicle under the new section 109A of the Road Traffic Act 1961, which is being inserted in that Act by section 5(n) above. Taken together, these new powers will enable the legal restriction of use of scramblers and other similar vehicles (without impeding legitimate sporting activity) and allow the Garda powers of seizure where necessary. The scrambler issue will also be addressed by section 5(g) above, which will allow for prosecution for dangerous driving where appropriate.

Section 11(c) will amend section 41 of the 1994 Act, which provides for Garda seizure of vehicles in certain circumstances. There are two amendments being made here (with small amendments to punctuation and connection to allow for them). First, the list of circumstances in which a Garda may detail a vehicle will be extended to include cases where, in the opinion of the member, the driver is not the holder of a driving licence or learner permit. Second, references in section 41(1)(e) and (f) to the legal basis for commercial vehicle roadworthiness, and for vehicle roadworthiness tests where the vehicle is registered in another EU Member State, are being updated.

PART 8

Amendment of Act of 2002

12. Amendment of Act of 2002

Section 12(a) substitutes a new version of section 6 of the Act of 2002, which deals with penalty points. Penalty points endorsed on a person's driving licence record remain there for 3 years. Section 6 of the Road Traffic Act 2002 provides that this 3-year countdown stops when the person ceases to hold a driving licence, either because they have been disqualified for driving for some reason other than penalty points, or because they have allowed their driving licence or learner permit to lapse.

Section 6 also provides that, when a person has been disqualified for 6 months due to accumulation of penalty points and is also disqualified on other grounds or ceases to hold a licence, those periods of disqualification or of not holding a licence do not count as part of the 6-month penalty point disqualification period.

The new version of section being substituted by section 12(a) of the Bill will add a disqualification under section 40 of the Road Traffic Act 2016 (disqualification pursuant to the mutual recognition of driving disqualifications between Ireland and the UK) to the types of disqualification during which penalty points will not count down and which will not count simultaneously with a penalty point disqualification.

Section 6 is also being amended with the addition of a new subsection 6(2). This is being introduced to provide for the position where a person has penalty points endorsed on their licence during a period where they are already disqualified on other grounds or a period when they have ceased to hold a licence. This can happen because penalty points may be endorsed

on a person's record some time after the event which led to the penalty points, and it is possible that a person might have been disqualified by a court in the meantime, or that their licence might have since lapsed. The new 6(2) will ensure that no part of the non-penalty point disqualification or cesser from holding a licence will count towards the 3-year countdown of penalty points, nor will they count as part of the period of penalty point disqualification if they are disqualified on grounds of penalty points because of that endorsement.

For the sake of clarity, the distinction between 6(1) and 6(2) is between a person getting a disqualification or ceasing to hold a licence after they have received penalty points (6(1)), and a person getting penalty points endorsed on their record while they are serving a disqualification or while they no longer hold a licence (6(2)).

Section 12(b) is a technical amendment to the First Schedule to the 2002 Act. The Schedule sets out what offences incur penalty points, and how many points each such offence incurs when a fixed charge is paid (where it is a fixed charge offence) and how many on conviction in court. Currently, the Schedule provides for 3 penalty points on payment of a fixed charge for dangerous overtaking and 5 on conviction in court. However, the regulations have since been amended to split the offence in two, one of dangerous overtaking of a pedal cyclist and one of dangerous overtaking of anyone else. The Schedule is being amended to reflect the split of the offences.

PART 9

Amendment of Act of 2004

13. Amendment of Section 9 of Act of 2004

Section 9 of the 2004 Act deals with Special Speed Limits. These are limits which a road authority may apply to a road under its control which vary from the default limit for that class of road. The amendments being made should be read in conjunction with amendments to the Road Traffic Act 1961 at sections 5(l) and (m) above, and relate to empowering the National Roads Authority (NRA) – now incorporated into Transport Infrastructure Ireland – to vary speed limits to manage traffic flow on motorways and, potentially in future, other national roads.

Subsection 13(a) of the Bill will amend subsection 9(1) of the 2004 Act to separate out the powers to make special speed limits granted to local authorities by subsection 9(1), so that they will not apply to motorways or to national roads designated by order under the new section 95A of the Road Traffic Act 1961 being introduced by section 4(i) of the Bill. This will allow for these powers to be conferred on the NRA.

Subsection 13(b) inserts a new subsection (1A) into section 9 of the 2004 Act. This will confer on the NRA the power to set special speed limits for motorways or national roads designated by an order under the new section 95A of the Road Traffic Act 1961 being introduced by section 4(i) of the Bill. Although the new subsection does not explicitly mention section 95A it will apply because section 95A(2) states that 'A reference to a motorway in section 95 or in section 9 of the Road Traffic Act 2004 in relation to a function of the National Roads Authority shall be construed to include a reference to a national road or part thereof designated by order under this section.'

Subsections (c) and (d) are consequential amendments pursuant to the changes made by subsections (a) and (b). As there will be two bye-law-making provisions in section 9 of the 2004 Act following amendment (those

under subsection (1) of that section and those under the new subsection (1A)), subsection (c) will amend reference to those provisions in subsection 9(3) of the 2004 Act – which deals with powers to local councils - to refer exclusively to bye-laws pursuant to subsection (1) of section 9 of the 2004 Act, as opposed to the new subsection (1A). Similarly, subsection (d) will move references to motorways from subsection 9(5), as subsection 9(5) refers to local authority powers and the intent is to give these powers, insofar as they relate to motorways, to the NRA.

Subsection (e) inserts a new subsection (5A) into the 2004 Act. Subsection 9(5) of the 2004 Act allows local authorities to set special speed limits for specified period of a day or for specified days. The new subsection (5A) now being inserted will grant similar powers to the NRA in relation to special speed limits for motorways and roads designated by order under the new section 95A of the Road Traffic Act 1961 being introduced by section 4(i) of the Bill.

Although the new subsection (5A) does not explicitly mention section 95A it will apply because section 95A(2) states that ‘A reference to a motorway in section 95 or in section 9 of the Road Traffic Act 2004 in relation to a function of the National Roads Authority shall be construed to include a reference to a national road or part thereof designated by order under this section.’

Subsection 13(f) will substitute a new subsection for subsection (6) of the 2004 Act. The current subsection (6) allows local authorities to provide special speed limits on motorways and national roads due to particular circumstances and for as long as those circumstances remain. This will now be replaced by a new subsection (6). The new subsection (6) is divided into (6)(a), which retains those powers for local authorities in respect of national roads but not motorways, and 6(b), which confers these powers on the NRA in respect of motorways.

Although the new subsection (6)(b) does not explicitly mention section 95A it will apply because section 95A(2) states that ‘A reference to a motorway in section 95 or in section 9 of the Road Traffic Act 2004 in relation to a function of the National Roads Authority shall be construed to include a reference to a national road or part thereof designated by order under this section.’

Subsections 13(g), (h), (i) and (j) are amendments to section 9 of the 2004 Act which are consequential on the separation of the existing local authority powers in section section 9(1) of the 2004 Act into local authority and NRA powers –

- Subsection (g) removes the reference in subsection (7) to the councils making special speed limits for motorways, as that is now to be under the remit of the National Roads Authority.
- Subsection (h) will add reference to the NRA as well as local authorities, as bodies which must have regard to ministerial guidelines, to subsection (9).
- Subsection (i) will amend subsection (10), which declares making of bye-laws to a reserved function, to add express reference to the fact that this applies to local authorities. This was not stated explicitly before because at present bye-laws under section 9 are made only by local authorities, and it needs to be expressed now because bye-laws may also be made by the NRA.
- Subsection (j) will amend subsection (12), which relates to certification of copies of special speed limit bye-laws, to include an officer of the NRA as well as an officer of a local authority as an approved signatory.

PART 10

Amendment of Act of 2010

14. Amendment of Act of 2010

Section 14 makes a number of technical and other amendments to the Road Traffic Act 2010.

Subsection (a) is a technical amendment, to update a cross-reference in section 3 of the 2010 Act.

Subsection (b) amends subsection 9(3) of the 2010 Act. Subsection 9 empowers the Garda to conduct preliminary breath tests for alcohol in certain circumstances, and subsection 9(3) declares that it is an offence to refuse or fail to comply with a Garda requirement under this section. This is being amended to state that it is an offence ‘subject to section 22(1A)’, which is being introduced below by the present Bill – see below under note on section 14(g) of the Bill.

Subsection (c) amends subsection 10(6)(a) of the 2010 Act. Section 10 relates to the establishment of mandatory intoxicant checkpoints by the Garda. Under subsection 10(6)(a) of the Act it is an offence to refuse or fail to comply with a Garda requirement to undergo a test under this section. This is being amended to state that it is an offence ‘subject to section 22(1B)’, which is being introduced below by the present Bill – see below under note on section 10(g).

Subsection (d) amends section 11(5) to remove reference to a ‘reasonable excuse’ defence to a charge of failure or refusal to comply with a Garda requirement to perform evidential impairment tests (tests involving walking in a straight line etc. to determine whether a person is intoxicated). This is being done because section 22 of the Act already provides for a defence of a ‘special and substantial reason’ for refusal/failure to perform these tests.

Subsections (e), and (f) are technical amendments, to update cross-references to section 11 in sections 12 and 16 of the 2010 Act.

Subsection (g)(i) inserts new subsections (1A) and (1B) into section 22 of the 2010 Act. Section 22 provides for defences which may be offered in respect of refusal to provide specimens for testing in relation to intoxicated driving offences. Currently, the defences relate only to evidential specimens, or to performance of evidential impairment tests (tests involving walking in a straight line etc. to determine whether a person is intoxicated). The new subsection (1A) will allow for a defence of a ‘special and substantial reason’ for refusal or failure to provide a preliminary specimen under section 9 of the Act, and the new subsection (1B) will provide for a similar defence for refusal or failure to provide a preliminary specimen under section 10 of the Act.

Note that the amendments above under sections 10(b) and 10(c) of the present Bill add cross-references to the new sections 22(1A) and (1B) being introduced here into sections 9 and 10 of the 2010 Act respectively.

Subsections (g)(ii) and (iii) are technical amendments to cross-references.

Subsection (h) amends section 34(2)(i) (ii). This currently states that offences under section 139 of the Finance Act 1992 are fixed charge offences. However, there are in fact several offences under section 139, and only some are intended to be fixed charge offences. This is therefore being clarified.

Subsection (i) makes a number of technical amendments to section 35 of the 2010 Act, which relates to the fixed charge system. This updates cross-references and adds, for avoidance of doubt, a reference to prosecutions initiated by An Garda Síochána. This is to distinguish these provisions from those relating to fixed charge notices issued by traffic wardens under the Local Authorities (Traffic Wardens) Act 1975, which is being amended by Part 6 of the present Bill. Likewise, subsection 35(4) is being deleted as it made separate provisions for fixed charge notices issued by traffic wardens, which are no longer required in light of the amendments being made to the 1975 Act.

Subsection (j)(i) changes the potential fine for offences under section 40 of the 2010 Act from a fine not exceeding €2000 to a Class C fine. This is in line with normal practice of referring to classes of fines. The fine in this case relates to giving false information to the Garda in cases where the registered owner was not the driver of the vehicle at the time of an incident leading to the issue of a fixed charge notice and is required to notify the Garda as to who the driver was.

As a class C fine is a maximum of €2,500 this represents a slight increase in the maximum fine allowable. Class C is however the nearest fine Class to €2,000. A Class B fine is a maximum of €4,000, while a Class D fine is a maximum of €1,000.

Subsection (j)(ii) is a technical correction to a cross-reference.

Subsection (k) is a technical amendment to rectify an omission in section 74 of the 2010 Act. Section 74 relates to capture of signature and photo when a person applies for an Irish driving licence. This is being amended to add reference to application for a learner permit.

Subsection (l) amends section 87 of the 2010 Act. Section 87 allows for exemptions from certain road traffic legislation for the emergency services – An Garda Síochána, ambulance and fire brigade services. An issue has arisen in that people training emergency service drivers do not have these exemptions, and therefore cannot demonstrate what they are teaching during training. The present amendment will insert a new subsection (1A) into section 87, allowing the minister to provide in regulations for persons engaged in training emergency service drivers, as well as persons undergoing the training, to enjoy these emergency service exemptions while giving or receiving instruction. Regulations will specify the appropriate people to be granted this exemption, and a key aspect of appropriateness will be safety.

PART 11

Amendment of Act of 2014

15. Amendment of Act of 2014

Section 15 amends certain provisions of the Road Traffic Act 2014.

Subsection (a) amends section 3(2)(a) of the 2014 Act, which relates to novice drivers. Section 3(2)(a) provides that the two-year period during which a person is a novice driver does not count down while they are disqualified under certain provisions, and the present amendment updates the list of those provisions.

Subsection (b) amends section 4 of the 2014 Act in relation to ‘N’ plates to be displayed by novice drivers and ‘N’ tabards to be displayed by novice motorcyclists. The effect of the amendment will be to allow the Minister to prescribe in regulations the form and manner of the plate or tabard. This is in line with the Minister’s power to make regulations in relation to ‘L’

plates for learner drivers. The result is that it will not be necessary to have an Act of the Oireachtas if changes to the format of the plate need to be made in future.

Subsection (c) makes three amendments to section 5 of the 2014 Act. Section 5 currently allows insurance companies to access information on applicants' penalty points when they are issuing (including renewing) a motor insurance policy. Subsections (c)(i) and (iii) will allow checks to be made during 'processing' of policies, so that checks can be made at times when policies are being amended, particularly where a new driver is being added to a policy. Subsection (c)(ii) will allow insurers to see information about disqualifications as well as penalty points.

These changes will assist in making insurance costs more directly relevant to the individual's record, and will therefore encourage better and safer driving, as well as potentially reducing the cost of insurance for more careful drivers.

PART 11

Powered Personal Transporters and Pedal Cycles

16. Amendment of Section 3 of Act of 1961

Section 16 provides for five amendments to section 3 (Interpretations) of the 1961 Act.

Subsection 16 (a), as noted in Section 5, amends the definition of "driving" to apply its meaning to the use of powered personal transporters (PPTs) in the same fashion as it is applied to the use of bicycles and tricycles (riding).

Subsection 16 (b)(i)(a), **Subsection 16(c)** and **Subsection 16(d)** are amended in order to provide a definition for e-bikes, which clearly differentiates between low-powered and high-powered models, by amending the definitions for mechanically propelled vehicle, pedal bicycle and pedal tricycle, respectively.

Subsection (b)(ii) provides for an amendment to the definition for a mechanically propelled vehicle to exclude PPTs from its scope and so permit the use of PPTs without imposing the registration, tax, licencing and insurance conditions associated with conventional motor vehicles.

Subsection 16 (e) provides for the insertion of a new definition for a new category of vehicle called powered personal transporters, or PPTs, and sets out certain technical details characterising such vehicles. This vehicle category is intended to encompass a range of small, lightweight micro-mobility vehicles such as e-scooters, electric skateboards, segways, hoverboards, etc. which are not accurately captured within the vehicle categories as set out in the 1961 Act due to technological innovations in the intervening years.

Finally, **Subsection 16(f)** provides for an amendment to incorporate PPTs within the definition for vehicle.

17. Amendment of section 20 of Act of 1961

Section 17 provides for the amendment of section 20 of the Road Traffic Act, 1961 to allow a member of An Garda Síochána to examine or test a PPT to ensure it does not have a dangerous defect. If a dangerous defect is discovered, the driver may be instructed not to use the PPT in a public place until the defect is remedied and may be required to present the PPT for a further examination or test at a specified time and place. A person in contravention of this section commits an offence (general penalty under section 105 of the Act).

The existing powers of occasional examination, inspection and test held by An Garda Síochána in relation to pedal cycles are extended to PPTs by the insertion of reference to such vehicles in subsections 20(6), 20(7)(a), 20(7)(b), 20(8)(a), 20(8)(b), 20(16)(a), 20(16)(b) and 20(17)(b).

18. Amendment of section 47 of Act of 1961

Section 47 of the 1961 Act sets out that it is an offence to exceed the maximum speed limits that apply in respect of the vehicle itself and the road upon which it is being used.

Section 18 amends subsection 47(1) to extend the existing provisions concerning the application of speed limits to PPTs. A person driving a powered personal transporter in excess of the applicable speed limit shall be guilty of an offence.

19. Amendment of section 48 of Act of 1961

Section 19 amends subsection 48(1) of the Road Traffic Act, 1961 to remove a reference to mechanically propelled vehicles and so provide that all vehicles will be within the scope of this section. This will make it an offence for a driver to use any vehicle in a public place while unfit to do so as this may represent a danger to public safety. A person in contravention of this section commits an offence and shall be liable to prescribed financial penalties.

20. Amendment of section 54 of Act of 1961

Section 54 of the 1961 Act deals with offences for driving dangerously defective vehicles.

Section 20 provides for an amendment to section 54 of the Road Traffic Act, 1961 to make it an offence for a driver to use a powered personal transporter in a public place when the vehicle has a defect preventable by the exercise of ordinary care. A person in contravention of this section commits an offence, may be arrested by a member of An Garda Síochána without warrant if suspected of having committed said offence and shall be liable to prescribed financial penalties or imprisonment accordingly. The existing provisions in respect of this section are extended to PPTs by the insertion of reference to such vehicles in subsections 54(1), 54(2) and 54(3).

The final amendment in this section is a technical amendment to subsection 54(3) to include reference to a “combination of vehicles” to which subsections 54(1) and 54(2) correspondingly refer.

21. Amendment of section 99 of Act of 1961

Section 21 provides that Section 99 of the Road Traffic Act, 1961 is amended by substituting a new subsection 99(1A) after subsection 99(1). Section 99 prohibits holding onto a moving vehicle in a public place. The new subsection 99(1A) is a technical amendment to clarify that this does not apply in the case of vehicles such as PPTs or pedal cycles where the driver is obliged to hold on to the vehicle in order to drive it.

22. Drivers of powered personal transporter holding onto other vehicles

Section 22 inserts a new section 100A after section 100 of the Road Traffic Act, 1961 to make it an offence for the driver of a PPT to hold onto any other moving vehicle while driving the PPT. This provision reflects the existing legislative framework for cyclists under which it is prohibited for cyclists to hold onto moving vehicles on the grounds that it is dangerous to do so.

23. Amendment of section 107 of Act of 1961

Section 107 of the 1961 Act confers powers on a member of An Garda Síochána to arrest without warrant a person using a mechanically propelled vehicle where it is suspected that said person has committed an offence under the Act and said person either fails to provide information when asked to do so or has provided information suspected to be false or misleading.

Section 23 provides for the amendment of section 107 of the Road Traffic Act, 1961 by removing a reference to mechanically propelled vehicles and so providing that all vehicles will be within the scope of this section.

24. Amendment of section 108 of Act of 1961

Section 108 of the 1961 Act confers powers on a member of An Garda Síochána to arrest without warrant a pedal cyclist where it is suspected that said cyclist has been suspected of having committed a crime or being involved in a collision, and where said cyclist has failed to provide information when asked to do so or has provided information suspected to be false or misleading.

Section 24 provides for the insertion of a reference to PPTs in this section so that the existing legislative framework for pedal cycles can here be applied to their use.

25. Amendment of section 110 of Act of 1961

Section 110 of the 1961 Act confers powers on a member of An Garda Síochána to temporarily dispose of a mechanically propelled vehicle without warrant when the person in charge of said vehicle has been arrested.

Section 25 provides for the amendment of section 110 of the Road Traffic Act, 1961 by removing a reference to mechanically propelled vehicles and so providing that all vehicles will be within the scope of this section.

26. Amendment of section 112 of Act of 1961

Section 26 provides for an amendment to section 112 of the Road Traffic Act, 1961 by inserting a reference to PPTs in subsection 112(3). This broadens the existing provisions prohibiting the use or taking of a pedal cycle without the owner's consent by applying the same prohibitions to powered personal transporters.

27. Amendment of section 113 of Act of 1961

Section 113 of the 1961 Act prohibits interfering with the mechanism of a mechanically propelled vehicle and prohibiting getting on or into a mechanically propelled vehicle which has been left in a public place without reasonable cause or lawful authority, unless the vehicle is obstructing an entrance or exit. A member of An Garda Síochána may arrest without warrant a person suspected of committing an offence under this section, but said person may offer as defence evidence that they believed they had lawful authority.

Section 27 provides for an amendment to section 113 of the Road Traffic Act, 1961 by removing a reference to mechanically propelled vehicles in subsection 113(1) and in subsection 113(4) and so providing that all vehicles will be within the scope of this section.

28. Amendment of Second Schedule to Act of 1961

The Second Schedule to the 1961 Act sets out offences under the Road Traffic Acts which lead to consequential disqualification orders. It is being amended in section 28 as a consequence of other amendments in the Bill. The principal reason is to ensure that a person will not face a consequential disqualification – i.e. loss of a driving licence – if they commit certain

offences using a Powered Personal Transport (PPT), i.e. a vehicle for which a driving licence is not required.

Section 28(a) substitutes paragraph 3 of the section schedule, which provides for consequential disqualification where a person commits an offence under section 48(1) of the 1961 Act and the offence occurs within three years of a previous conviction under the section. This is a consequential amendment following on from section 19 of the present Bill, which amends section 48. At present, section 48 of the 1961 Act makes it an offence for a person to drive a mechanically propelled vehicle (MPV) when they know that they have a condition which would make their driving a danger to the public. Section 19 of this Bill will amend section 48 so that it applies to all vehicles, not just MPVs. In consequence, it is necessary to amend paragraph 3 of the second schedule to clarify that it is only when the offence is committed with an MPV that it leads to disqualification (as disqualification is from driving an MPV).

Section 28(b) substitutes paragraph 6 of the second schedule. Paragraph 6 deals with disqualification for offences under sections 12, 13B and 14 of the Road Traffic Act 2010. These sections relate to requirement to provide specimens of breath, blood or urine for testing after arrest on suspicion of intoxicated driving (section 12), requirement to provide a blood specimen when arrested on suspicion of certain offences involving drugs (section 13B), and obligation on a person involved in a road traffic incident and taken to hospital to provide a specimen of blood or urine for testing for intoxicants.

The new version of paragraph 6 will repeat the current application of consequential disqualification following convictions under sections 12, 13B and 14 as paragraph 6(a), but also adds a number of exceptions in paragraph 6(b). The exceptions take account of provisions elsewhere in the Bill to provide for PPTs. Exceptions are where the original arrest leading to offences and then convictions under section 12, 13B or 14 was under –

- (i) Section 6(4) of the 2010 Act. Section 6 relates to being intoxicated while driving an animal-drawn vehicle or riding a pedal cycle. These cases should in principle have been excluded already. The present Bill, in section 36, is extending section 6 of the 2010 Act to cover being intoxicated while riding a Powered Personal Transporter, and the opportunity is now being taken to exempt people convicted under section 12 from consequential disqualification if they were arrested originally for an offence involving an animal-drawn vehicle, a pedal cycle, or a PPT.
- (ii) Section 10(7) of the 2010 Act. This section relates to Garda mandatory intoxicant checkpoints, and the exemption will apply where the vehicle in question was not a mechanically propelled vehicle. Note that section 10 itself is not being amended in this Bill as the power to stop a vehicle and test a driver under section 10 already applies to a vehicle, not just a mechanically propelled vehicle. However, this will now include PPTs, as they will be legal, and it as in the case of the previously mentioned exemption in relation to section 6(4), it is considered that, in principle, disqualification should apply only in those cases where the vehicle involved is one for which a licence is required.
- (iii) Section 52(3) of the 1961 Act. Section 52 addresses careless driving. Under this exemption, a person will not be disqualified, i.e. will not lose their driving licence, if the vehicle concerned was not a mechanically propelled vehicle and therefore did not require a driving licence. Note that section 52 itself is not being amended

in this Bill as the offence of careless driving already applies to a vehicle, not just a mechanically propelled vehicle. However, this will now include PPTs, as they will be legal, and as in the case of the previously mentioned exemption in relation to section 6(4), it is considered that, in principle, disqualification should apply only in those cases where the vehicle involved is one for which a licence is required.

- (iv) Section 53(5) of the 1961 Act. Section 52 addresses careless driving. Under this exemption, a person will not be disqualified, i.e. will not lose their driving licence, if the vehicle concerned was not a mechanically propelled vehicle and therefore did not require a driving licence. Note that the offence of dangerous driving under section 53 already applies to a vehicle, not just a mechanically propelled vehicle. However, this will now include PPTs, as they will be legal, and it as in the case of the previously mentioned exemption in relation to section 6(4), it is considered that, in principle, disqualification should apply only in those cases where the vehicle involved is one for which a licence is required.
- (v) Section 112 of the Act of 1961. This is a section which contains offences of using or possession of a mechanically propelled vehicle or a pedal cycle without permission. It is being amended by section 26 of the Bill to add a PPT. Under this exemption, a person will not be disqualified, i.e. will not lose their driving licence, if the vehicle concerned was not a mechanically propelled vehicle and therefore did not require a driving licence.

29. Amendment of section 35 of Act of 1994

Section 29 amends section 35 of the Road Traffic Act, 1994 by inserting a reference to PPTs in subsection 35(2), paragraph (c), paragraph (d) and paragraph (h). These amendments permit the Minister to make certain regulations to control the use of powered personal transporters in traffic by assigning specified parts of roads for the use of powered personal transporters and prohibiting use of specified roads or parts of roads by powered personal transporters.

A new paragraph (u) is added to subsection 35(2) to allow the Minister to make regulations prohibiting or restricting the use of powered personal transporters on different classes of roads.

The final amendment in this section is a technical amendment to subsection 35(2), paragraph (t), which arises as a consequence of the insertion of the new paragraph (u).

30. Amendment of section 38 of Act of 1994

Section 38 of the 1994 Act confers powers on local authorities to put in place traffic calming measures on roads under their charge.

Section 30 amends section 38 of the Road Traffic Act, 1994, by inserting a reference to PPTs in subsection 38(9), paragraph (a) and paragraph (b)(i) and to drivers of PPTs in paragraph (b)(ii). This extends the powers of local authorities to require PPTs to take account of any traffic calming measures which may have been implemented by said local authority.

31. Amendment of section 41 of Act of 1994

Section 41 of the 1994 Act concerns the detention of vehicles.

Section 31 provides for an amendment in subsection 41(1) by the insertion of a new paragraph (g). This amendment will make it so that a person cannot use a PPT in contravention of regulations made under section 11 of the Road Traffic Act 1961 (use of PPTs in public places)

or in contravention of provisions prohibiting the driving of a dangerously defective PPT (section 54 of the Road Traffic Act 1961).

Further technical amendments are made to subsections 41(1)(a) through (f) arising as a consequence of the insertion of the new subsection 41(1)(g) and correcting cross-references.

32. Amendment of section 4 of Act of 2004

Section 4 of the 2004 Act confers powers on the Minister for Transport to prescribe speed limits in respect of mechanically propelled vehicles.

Section 32 provides for the amendment of section 4 of the Road Traffic Act, 2004 by removing a reference to mechanically propelled vehicles and so providing that all vehicles will be within the scope of this section.

33. Amendment of section 9 of Act of 2004

Section 33 provides for the amendment of section 9 of the Road Traffic Act, 2004, by inserting a new subsection 33(12A) to clarify that when travelling on roads with a special speed limit of 20 km/h as specified in bye-laws by the relevant local authority, this speed limit will also apply to powered personal transporters. This amendment is intended to prevent any ambiguity in that, in general, the maximum speed limit that will apply to PPTs will be 25km/h, but in the case that a speed limit of 20 km/h applies to the road, the lower of the two limits will apply.

34. Supply of powered personal transporter to person under 16 years of age

Section 34 inserts a new section 30A into the Road Traffic Act, 2004, to make it an offence to supply of PPTs to persons under the age of 16 years. This is a road safety measure intended that imposing an age limit on PPTs will restrict the availability of PPTs to persons under 16 and so reduce the danger of injury to minors from PPT use or injury caused by minors to pedestrians and other vulnerable road users.

35. Amendment of section 3 of Road Traffic Act 2006

Section 35 provides for four amendments to the 2006 Act. The provisions prohibiting the use of mobile phones while driving a mechanically propelled vehicle are amended to include the prohibition of using a mobile phone while driving a powered personal transporter. This is a road safety measure to ensure the attention and stability of drivers of powered personal transporters is not impaired while using the vehicle.

Subsection 35(3)(1) of the Road Traffic Act 2006 is amended to insert “or a powered personal transporter” after “mechanically propelled vehicle”.

A new subsection 35(3)(4A) is inserted to permit the Minister, if required, to make regulations restricting the use of mobile phones in circumstances other than those provided in subsection 3(1) and restricting the use of information or entertainment equipment while driving a powered personal transporter.

Further technical amendments are made to subsections 35(3)(5), 35(3)(6) and 35(3)(7) arising as a consequence of the insertion of the new subsection 35(3)(4A).

36. Amendment of section 6 of Act of 2010

Section 36 amends subsection 6(1)(b) and 6(1)(c) of the Road Traffic Act, 2010, to include reference to PPTs.

This amendment is a road safety measure and creates a new offence of driving a powered personal transporter while under the influence of an intoxicant. The amendment uses the existing offence and penalty relating

to pedal cycles and broadens those provisions to include personal powered transporters.

37. Amendment of section 130 of Finance Act 1992

Section 37 amends section 130 of the Finance Act, 1992, by clarifying in the definition for “mechanically propelled vehicle” that this category does not include PPTs, and by inserting a definition for PPTs which cross-references the definition provided in section 3 of the Road Traffic Act, 1961. This amendment ensures cross-legislative alignment between the Finance Acts and the Road Traffic Acts 1961-2018.

38. Amendment of section 2 of Act of 1993

Section 38 provides for an amendment to section 2 of the Roads Act, 1993, by inserting a definition for PPTs in section 2(1) which cross-references the definition provided in section 3 of the Road Traffic Act, 1961. This amendment ensures cross-legislative alignment between the Roads Acts and the Road Traffic Acts 1961-2018.

39. Amendment of section 43 of Act of 1993

Section 39 provides for an amendment to subsection 43(4) of the Roads Act, 1993, to prohibit the use of PPTs on a motorway. This is a road safety measure to ensure that vulnerable road users are not endangered by sharing road space with mechanically propelled vehicles such as cars, vans, trucks, buses and coaches travelling at high speeds. The amendment uses the existing prohibition relating to pedal cycles and pedestrians and broadens those provisions to include powered personal transporters.

40. Amendment of section 44 of Act of 1993

Section 40 amends subsection 44(4) of the Roads Act, 1993, to prohibit the use of PPTs on a busway. This is a road safety measure to ensure that vulnerable road users are not endangered by sharing road space with heavy-duty mechanically propelled vehicles such as buses. The amendment uses the existing prohibition relating to pedal cycles and pedestrians and broadens those provisions to include powered personal transporters.

41. Amendment of section 57 of Act of 1993

Section 41 amends subsection 57(2) of the Roads Act, 1993, by including reference to PPTs. This amendment uses the existing exemption from toll schemes for pedal cycles and pedestrians and broadens those provisions to include powered personal transporters.

42. Amendment of section 68 of Act of 1993

Section 42 substitutes subsections 68(1) and 68(2)(b) in order to permit the use of PPTs on cycleways when so ordered by the road authority. This amendment uses the existing permissions in relation to pedal cycles and broadens these provisions to include powered personal transporters.

PART 3

Roads and Public Transport Infrastructure

43. Amendment of section 2 of Act of 1993

Section 43 provides for an amendment to the definition of “road” in section 2 of the Roads Act 1993 in order to provide clarity on what constitutes part of the road.

44. Amendment of section 13 of Act of 1993

Section 44 provides for the amendment of section 13 of the Roads Act 1993. The insertion of a new section 13(7A) will allow a road authority the power to carry out works to reduce, increase or modify specified items within an existing road or forming part of the road, which may be necessary for the reconfiguration of the road.

Section 13(8) is substituted to clarify the powers of the road authority in relation to works “*on, in, under, or over a road*”, and provides clarity regarding the position on changes to pipes or other similar infrastructure that may currently be considered to be “under” the road, rather than forming part of the road. This section updates section 13(8) to allow for any structure or infrastructure to be provided on, in, under or over a road, including for the charging of electric vehicles and the provision of information to road users.

The insertion of the new subsection 11 outlines that subsection 10 of section 13 of the Roads Act will not be applicable to the NTA when they are exercising the powers of a road authority in accordance with the Dublin Transport Authority Act 2008.

45. Power of An Bord Pleanála to approve scheme or proposed road development that contravenes materially any plan

Section 45 provides for the insertion of a new section 51AA into the Roads Act 1993. In determining any application for approval under section 51 of the Roads Act 1993, An Bord Pleanála must have regard to development and local area plans. The present amendment provides that An Bord Pleanála shall approve a scheme or a proposed road development that contravenes materially any development plan or any local area plan only where specific circumstances arise, including where the scheme or road development is of strategic, regional or national importance, where there are conflicting objectives in the development plan, where the scheme or road development should be approved having regard to the transport strategy made under the Dublin Transport Authority Act 2008, or having regard to the pattern of development, and planning permissions granted in the area since the making of the development plan.

46. Amendment of section 44 of Dublin Transport Authority Act 2008

Section 46 amends section 44 of the Dublin Transport Authority Act 2008.

Section 44(6)(iii) is amended to provide that the NTA cannot be interpreted as stepping into the role of a local authority under section 178 of the Planning and Development Act 2000.

The section also provides for the insertion of a new subsection 6A in section 44 of the Dublin Transport Authority Act, which provides that the National Transport Authority have the power to acquire lands by agreement or by means of a compulsory purchase order for the purpose of mitigating the impact of any public transport infrastructure on the environment generally, or on any particular site, building or structure, the availability of parking, or trees and landscaping. This provides a clear legislative power to acquire lands for the purposes of certain mitigation measures. The provision also ensures that a power exists to relocate or replace the items listed in this section (if necessary, with a similar but not identical equivalent) if they need to be demolished or removed in order to provide the necessary public transport infrastructure.

The final amendment in this section is a technical amendment to section 44(7) and (8) which arises as a consequence of the insertion of the new subsection 6A.