

**Road Traffic Bill Pre-Legislative Scrutiny
Meeting with Minister and Department 30 June 2021**

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Opening Statement by Minister

Cathaoirleach, Members of the Committee, thank you for inviting me here today to talk about this Bill, which will be known as the Road Traffic Bill 2021. I appreciate that the Committee has made this time available to discuss it. I am joined today by my Assistant Secretary, Mr. Ray O'Leary. Safety in all areas of transport has always been the highest priority of my Department. In the area of road safety, Ireland has made great strides in the past twenty years, but we need to do more to reduce deaths and serious injuries on our roads. The Road Safety Authority is at present working on preparing a new national Road Safety Strategy to submit for my consideration, and this will focus on a Vision Zero approach with special attention to vulnerable road users, as we promised in the Programme for Government.

The Bill will address a number of important issues which will contribute to road safety, and I am sure that you, like me, will want to see this moved on from Pre-Legislative Scrutiny to publication as soon as possible.

This is a Bill which began life under the previous Government, and was delayed first by the election and then, inevitably, because of the pandemic. As a result, other issues have arisen since it began preparation which can now be addressed in the Bill, in particular some commitments in our Programme for Government. Subject to the views of the Attorney General's Office, some of these additional matters may be included in the published Bill, while some may have to be introduced as amendments at Committee Stage. Either way, they should form part of the Bill as enacted.

What I propose to do here is to outline the main issues to be addressed in the Bill. They will be part of the published Bill or proposed as amendments during the passage of the Bill. I then be happy to discuss any queries the Committee may raise.

I'll start with the issues which will definitely be addressed in the published Bill.

MASTER LICENCE RECORD

My Department holds the definitive legal records of driving licences, and also the definitive legal records of vehicle ownership in our offices in Shannon. At present, these records cannot be linked, which means details of a vehicle can't be linked to the owner's driver licence record. For the Gardaí, this means that a car registration will give them access to records of the owner but not the owner's licence record which may, for example, show that they are disqualified. The absence of a link between the records has also created difficulties in linking road traffic offences to specific licence records, particularly in cases which come before the courts. Unfortunately, this is the outcome for over 50% of penalty point court cases. The same problem applies with

disqualifications, with over 30% of court cases which lead to disqualification not leading to identification of the appropriate licensing record. As a result, penalty points and disqualifications which should be marked on people's records are not, and these people may continue to drive on our roads while disqualified.

Obviously this is not acceptable. The Bill will address this by requiring people registering vehicle ownership to provide a unique identifier allowing a link to a driver licence record. This will be either a driver number - which is a unique number which stays the same through a person's driving career, and is not the same as a licence number, which changes each time the licence is renewed; or the equivalent if the person holds a foreign licence; or if they hold neither, their PPSN. In future, this will mean that even if people fail to produce a driving licence in court we will be able to identify their driving licence record from their vehicle and apply the appropriate points or disqualification.

MEDICAL FITNESS TO DRIVE

We will also be modernizing legislation on medical fitness to drive. Irish legislation in this area makes the definition of medical criteria to drive dependent on legislation for what is called a Certificate of Fitness. This is actually a very rare type of document, which can be requested by a court, or by a driving tester, in certain circumstances. The legislation pre-dates EU membership, and EU law ties medical fitness to drive to issuing driving licences - in other words, it says that Member States shouldn't issue a driving licence to people who don't meet the required medical standards. This has made for a bad fit between Irish and EU law. Although we have been able to manage this difference to date, it is past time that we amended Irish law to make a better fit with EU law in this area, and this is what we will do.

MOTOR THIRD PARTY LIABILITY DATABASE

Members may be aware that there is a project under way to create a Motor Third Party Liability, or MTPL, database. This means, in essence, a database of all motor insurance policies in the State. The aim is to tackle uninsured driving, reducing the risk to law-abiding motorists and cutting the cost of insurance. This database will be accessible by the Garda Síochána, who will be able to identify whether a vehicle is insured at the roadside, whether or not is displaying a disc which seems valid. There is already legislation in place for the database, some of which has been commenced. However, as the project has developed it has become clear that there needs to be further amendment to the legislation to make the database work as it should. My Department has had extensive engagement in particular with the Office of the Data Protection Commission in the preparation of proposals to ensure that the database will work as intended, and this will be part of the published Bill.

DYNAMIC TRAFFIC MANAGEMENT BY TII

At present, Transport Infrastructure Ireland is investing in a project to allow for what is called dynamic traffic management on the M50. This will involve varying speed limits to manage traffic flow, as well as lane closures when appropriate. As an example, let's suppose that in the evening rush-hour traffic starts to build up and back up at a junction on the M50 Northbound carriage. Under the new system, TII would be able to lower the speed limit for traffic heading towards this junction, to slow down the traffic and allow the build-up to disperse. This will be done by signage on overhead gantries. The Bill will contain measures to allow TII to provide the signage and to allow them to set the speed limits. At present, this system is being applied only to the M50. However, the Bill will allow for future-proofing by providing the same powers for motorways in general, in case TII need them, and would allow for regulations which could designate national roads or part of national roads as subject to the same system. I understand that there may still be some legal issues to resolve regarding the mechanism for TII to set the speed limits, but if any amendment to the published Bill is needed I will address it at Committee Stage.

LOCAL AUTHORITY FIXED CHARGE NOTICES

Fixed charge notices for road traffic offences are issued by the Garda, and I'm sure the committee will be familiar with the idea. A person who is identified in a road traffic offence which is a fixed charge notice offence will first get a fixed charge notice in the post. It gives them 28 days to pay the charge and then a further 28 days to pay the charge plus 50%. If there is no payment after 56 days, court proceedings are instituted. When they get a summons to court, they also get a so-called Third Payment Option, which is a chance to avoid court by paying the fixed charge plus 100% no later than 7 days before the date of the court appearance.

The rules for fixed charges issued by An Garda Síochána were overhauled in 2010 to set out procedure in more detail in the legislation and to introduce the Third Payment Option for the first time. However, there is an entirely separate legislative basis for fixed charge notices issued by traffic wardens, who have the power to issue them for parking offences. This legislation at present doesn't have a Third Payment Option and doesn't specify procedures in the detail used for Garda notices in 2010 legislation. The Bill will now rectify this by updating the legislation on traffic warden fixed charge notices in a similar way to the Garda notices, and introducing a Third Payment Option for fixed charge notices issued by traffic wardens.

DEFENCE IN PREMINARY BREATH SPECIMEN CASES

There will be several smaller amendments in the Bill as well. The legislation at present allows for a defence of a 'special and substantial reason' why a person has not complied

with a request to provide an evidential specimen of breath, blood or urine in a road traffic case, but there is no similar defence permitted for not providing a preliminary roadside specimen, and we will be rectifying that.

EMERGENCY DRIVER TRAINING

We will also be amending the legislation on driving by the emergency services to allow trainers of emergency drivers to demonstrate what they are teaching.

'N' PLATES

Provision will be made for the format of the novice driver 'N-Plate' to be set in regulations, as the learner L-Plate already is. At the moment, it would take an Act of the Oireachtas just to change the size of the 'N', which is not very reasonable.

INSURER ACCESS TO RECORDS

The existing arrangement where insurers can view penalty points on people's licence records when they are issuing, including renewing, insurance policies, will be amended to allow them to view disqualifications people have received, and to do this between renewals if a policy is being changed to add a new driver. This will help to make the alignment between risky drivers and insurance premia closer.

These measures will all definitely be in the published Bill. As I said before, we have other proposals which are going to be added to the Bill, for publication if we can, or else at committee stage if they are not ready for the published Bill.

ESCOOTERS

Some of these measures directly address commitments we made in the Programme for Government. The Committee has, I know, expressed an interest in how we plan to deal with the commitment to legislate for scooters. These vehicles have become very popular in the last couple of years, and we have promised to legislate for them. Obviously, the existing road traffic legislation wasn't written to take scooters into account, and the result is that they automatically fall into the category of 'mechanically propelled vehicles.' This means that at present they shouldn't be used in public without tax, insurance, and a driving licence. Of course there is no such thing as an scooter driving licence, and they can't be taxed because they are not type-approved. The result is that, strictly speaking, they can't be used in a public place.

We have looked at how best to deal with this unreasonable situation. I will be proposing to define a new class of vehicles, to be called Powered Personal Transporters - PPTs - in the Road Traffic Acts. This class will include scooters and similar vehicles,

and it will have the advantage that other types of vehicle which might appear in the future falling into this area will then be provided for automatically. Once these are a clear legal category of vehicle, the proposed legislation will state where particular provisions of the Road Traffic Acts do or do not apply to them. For example, it is my view that they should not be subject to mandatory insurance when they are privately used, but I would strongly recommend it, and I think that insurance should be required by firms which hire them out. I know there are different views on this, and I would be happy to discuss it further if the Committee would like.

There are already ministerial powers in the Acts to make regulations for the construction, equipment and use of vehicles, and to make regulations for traffic and parking. Once PPTs are vehicles legally usable in public, it will become possible to make regulations in these areas. The proposals in the Bill are therefore part of a package of measures which will govern the use of scooters, with regulations due to follow. There is work still under way on what these regulations might do, and I know there are issues to be considered such as whether there should be a minimum age for riders. We can discuss this in due course if the Committee would like, and I would be interested to hear your views.

EBIKES

We will also be legislating to address electric bikes. Ebikes are popular, but the legislation as it exists creates a great deal of uncertainty around how they are to be classed and what rules apply. We will be amending the legal definitions of both a pedal cycle and a mechanically propelled vehicle to end this confusion, by setting a clear dividing line between lower-powered machines, which will be classed as pedal bicycles or pedal tricycles, and higher-powered machines which will continue to be mechanically propelled vehicles.

SCRAMBLERS ETC.

The Government has also committed in our Programme to act against people who engage in anti-social use of scramblers, quads and other vehicles, with legislation to enhance Garda powers if necessary. When these vehicles are used on roads they are subject to a range of road traffic law, and the Garda have powers to deal with them. The difficulty is with other places, particularly parks and amenities. At best, the anti-social use of these vehicles ruins the enjoyment of public amenities for everyone else, but at worst it risks causing death or serious injury.

The problem of scramblers is one which crosses Departments and needs to be addressed on a number of fronts. There is a group of key stakeholders which has been looking at this under the leadership of the Department of Justice. This group has looked in detail at how to address the problem, and one element is legislation which

will come within the remit of my Department. I am grateful to the Attorney General in particular for the very direct interest he has taken on this. As a result of our discussions, we will be bringing forth proposals to assist the Gardaí in addressing this problem, which has been a menace for far too long.

We will legislate to create a new ministerial power to make regulations which will declare specified vehicles to be prohibited or restricted. This will enable regulations to be made which will address the use of scramblers and similar vehicles in places where they are not appropriate, such as parks and amenities.

The Garda will be empowered to detain and dispose of vehicles used contrary to the new legislation. They will also have power to enter premises where vehicles are kept, so that they can seize vehicles suspected of having been used contrary to the new regulations.

REVOCAION OF DRIVING LICENCES

Ireland has not in the past issued driving licences to asylum-seekers, and this is something we want to change. There is one very important precondition, though. A driving licence is a valuable form of identity and can be used across the EU. If we issue to driving licences to asylum-seekers, we will need to be able to revoke them if a person's application for asylum is refused, otherwise they could simply move elsewhere in the EU using the licence as proof of identity and apparent right to stay in the EU. Provision will be made for this in the Bill, most likely at Committee Stage.

TESTING OF AUTOMATED VEHICLES

We are also going to make amendments needed to allow for the safe testing of Automated Vehicles - AVs - on our roads. Contrary to some optimistic reports, it is likely to be a good many years before AVs are widely available on the market, but a great deal of development work is underway, and this inevitably means that they have to be tested in real-life situations. We will however ensure that this is done only with a human at the wheel who can intervene and override the AV technology if necessary.

VARIANCE IN EVIDENTIAL BREATH TESTING

On the advice of the AG, we are also going to introduce provisions to make regulations for variances used in evidential breath testing. These are variances allowed when calculating the final outcome of an evidential breath tests, and are always applied to the benefit of the suspect.

DRIVING INSTRUCTION

We will be updating the legislation on driving instruction, to introduce provisions as to who is a 'fit and proper person' to be an Approved Driving Instructor, or ADI. In practice this means that people who have certain kinds of criminal convictions – particularly violent criminals and sex offenders – will not be permitted to be ADIs. Let's remember that driving instruction involves instructors and pupils in a vehicle together, and people have a right to a level of assurance that they are not getting into a car with a dangerous person. We already have similar laws about who is a fit and proper person to hold a taxi licence.

BUSCONNECTS

Finally, members of the Committee will be familiar with the planned BusConnects project. It was originally my intention to have a separate Bill which would introduce legislation needed to underpin BusConnects, but this would not be possible in the available time. My officials are therefore working with the Office of the Attorney General to introduce amendments to the present Bill to provide the necessary legislation to enable BusConnects to go ahead. This is still in progress, and at this point the precise provisions have yet to be settled.

CONCLUSION

So that it is a run through the Bill. As you can see, it covers an extensive range of areas. All of them are important and worth addressing and, as I said at the beginning, I want to progress this Bill as quickly as possible. In the current timeframe, very near the summer recess, it is clear that we are not going to have the Bill before the Houses until the autumn. However, I would very much appreciate if the Committee could reach its conclusions on pre-legislative scrutiny in the near future and forward them to me, so that we can move on and publish the Bill for Deputies and Senators to consider, and then proceed to debate it in the Houses after the summer recess.

Master Licence Record (MLR)

At present, the Department holds records of driving licences issued in the State and also vehicle ownership records. These records are collectively referred to as the National Vehicle and Driver File (NVDF). In spite of the name, this represents two distinct sets of records, which at present cannot be linked. The purpose of the present amendment to legislation is to enable a linkage between the driver licence and vehicle ownership records.

Vehicle ownership records in the NVDF currently only include name and address details and there is no requirement for a private individual to provide unique identifying particulars or to verify their identity in order to own a vehicle. This is the reason why there is no direct link between the vehicle owner records and driving licence records in the NVDF, and this gives rise to a serious road safety issue outlined below.

In situations where a vehicle owner does not respond to or disputes a road traffic offence, the case proceeds to court. If no driving licence is provided or the offender fails to appear at court, there is no fully reliable means of applying the penalty points to the appropriate driving licence record due to the lack of a direct link. Unfortunately, this is the outcome for over 50% of penalty point court cases which amounts to roughly 10,000 outstanding offences per year. Similarly, many drivers that receive driving disqualifications at court do not have the disqualifications applied to their driving licence record because they fail to appear, do not provide their driving licence to court or do not have a driving licence. This is the outcome for over 30% of court cases which amounts to roughly 3,000 outstanding disqualifications per year.

The following solution has been proposed by the Department to address the road safety issue outlined above. At a high-level, the solution involves 1) establishing vehicle owner identity to provide a link between vehicles and drivers in the NVDF and 2) using these vehicle-driver links, subsequently, to endorse road traffic offences on the correct driving licence record in situations where an offence is received from An Garda Síochána or the Courts Service without driving licence details. The principal mechanism proposed to establish vehicle owner identity on the NVDF for the purpose of endorsing road traffic offences is to require vehicle owners to verify their identity on application or transfer of a vehicle licence (i.e. motor tax application or change of vehicle ownership). This is the purpose of the amendment now being proposed.

This will mean amending the 1920 Roads Act, which provides the basis for vehicle owner registration. People registering ownership (including at changes of ownership)

will be required to provide their driver number. This is a unique identifier which follows a person through their driving career (and not the same as a licence number, which changes each time a licence is renewed). Where a person holds a non-national licence, the equivalent will be captured. Where a person holds neither – a there is no requirement to have a licence in order to own a mechanically propelled vehicle – the PPSN will be captured. This would allow linkage to a licence record if the person subsequently obtained a driving licence.

Note on Production of Driving Licence in Court

It is a legal requirement under section 22 of the Road Traffic Act 2002 for a person who is convicted of a penalty point offence to produce their driving licence in court for the court to record it. This is so that the licence records can be identified and the penalty points endorsed on their record.

When penalty points were first introduced in 2002, section 22 was cast rather differently. It originally required people charged with penalty point offences to produce their licences to the courts and required the courts to take a record. In practice this did not always happen, and anecdotal evidence suggests that in some cases the District Justice would simply ask all people in court for penalty point offences to hold up their licence, and would treat that as compliance with the law. Prosecution for non-production of a licence raised difficulties, because the form of the summons did not at the time tell people that they had to bring their licence.

The difficulty was discussed by the Department with the Garda and the Courts service, and it was agreed to amend the law written to its present form, which requires people to produce their licence only on conviction and requires the court to record the details. At the same time, the form of the summons was changed to advise people to bring their licence.

Evidently the problem has not been fully solved, and the ability to link vehicle ownership to driver licence records will make a major difference, as the vehicle details will generally be recorded, and most cases involve the vehicle owner.

In term of penalty point allocation, it is also worth remembering that most people pay their Fixed Charge Notice and receive points on that basis – it is only a minority of cases which come before the courts.

Medical Fitness to Drive

Irish legislation on medical fitness to drive pre-dates EU membership. It creates 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. The certificate of fitness may be required only in very limited circumstances, when required by a Court or where a driver tester raises concerns about a driver's medical condition during a driving test. Indications are that only a handful of certificates will be issued in any given year.

EU law sets medical fitness to drive conditions, and prohibits Member States from issuing driving licences to people who fail to meet these criteria.

While the current Irish legislative architecture has worked up to a point, it is not optimal for application of EU legislation on medical fitness to drive.

The Bill will therefore amend Section 42 of the Road Traffic Act 1961 – the section which provides for regulations in relation to driving licences – to allow the Minister 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 will also be empowered to publish guidelines to be followed by those carrying out such medical examinations, and will make it an offence for anyone to certify falsely that a person is medically fit to drive.

These amendments will therefore decouple medical fitness to drive from the certificate of fitness, removing any difficulty in the alignment of Irish and EU law.

The certificate of fitness itself will remain as it is in law – although a rare document, it is occasionally necessary in the interests of public safety.

Motor Third Party Liability (MTPL) Database

It is a requirement under Irish law that mechanically propelled vehicles used in a public place must, at a minimum, have third party insurance cover. Use of a mechanically propelled vehicle in a public place without insurance is an offence.

For some years, the Department has engaged with other stakeholders – Department of Justice and Equality, An Garda Síochána, Insurance Ireland and the Motor Insurers Bureau of Ireland (MIBI) to create a database of all motor insurance policies in the State.

There are two main policy concerns behind the creation of the MTPL database –

Public Safety: As uninsured drivers frequently commit other road traffic offences, enabling better enforcement against uninsured drivers will contribute to making roads safer for all road users.

Reducing the Cost of Insurance: As the cost of uninsured drivers is ultimately borne by insurance drivers, reducing uninsured driving will help to reduce the cost of insurance.

A legislative basis was first provided in the Road Traffic Act 2010. This was however lacking in detail. Due to growing understanding of legislative needs as the project developed, and flaws/gaps in the earlier legislation, the 2010 legislation was amended in 2016 and 2018. In particular, the amending provisions set out the data to be captured in the database.

As the project is now matured further amendments have been identified. The change in rules on data protection following the introduction of GDPR has also been taken into account, and the Department had detailed engagement with the Office of the Data Protection Commission to ensure that the amending legislation now proposed would meet data protection requirements.

Under the provisions of the Bill, the MTPL database will be accessible to the MIBI, the Department, An Garda Síochána (AGS), and perhaps the NTA –

- Garda access will be for the purposes of checking via a mobile app whether vehicles/drivers are insured
- MIBI has a number of functions which require it to have access to MTPL data – MIBI is the body handling claims involving vehicles in international travel, the compensation body for claims involving untraced/uninsured vehicles, and the

Motor Insurance Information Centre of Ireland for the purposes of Article 23 of Directive 2009/103/EC

- The Departmental will able to use the data to validate insurance records for vehicle tax purposes, and to assist in a further project, the Master Licence Record (MLR), which will provide a link between vehicle ownership and driver licence records
- The NTA will have limited access so that they can verify insurance records for taxi licence applicants and holders. Taxis must have the appropriate insurance, and the NTA is as taxi regulator responsible for seeing that this is the case.

Progress on MTPL Database Development

Some of the existing legislative provisions were commenced in November 2019, allowing for the beginning of population of the database. The project has been divided into phases -

- Phase 1 - private motor insurance policy details - this covers approximately 90% of all policies in the country - this in now complete.
- Phase 2 - addition of driver number to the policy details - this is vital for the Department in view of MLR, but existing legislation does not at yet fully support it. This will be rectified in the Bill.
- Phase 3 - fleet insurance data - this will also be addressed in the Bill.

TII and Dynamic Speed Management

The Project

Transport Infrastructure Ireland (TII), the agency with responsibilities for Ireland's national roads network, is in the process of introducing a new system for dynamic traffic management on the M50 motorway. This traffic management system is designed to optimise traffic flows within the existing M50 road infrastructure, especially at peak times, thereby improving both journey time reliability and safety.

The project involves implementing Variable Speed Limits on the motorway, using illuminated speed limit signs, displayed overhead each lane, that are most appropriate to the prevailing traffic conditions at that time. In addition, Lane Control Signalling ("Red X") will be installed as part of the project to allow the rapid deployment of lane closures (through the same overhead illuminated signage) to protect road users and emergency services during an incident on the road - as well as personnel carrying out roadworks. Enforcement cameras will be installed to promote driver compliance.

By way of example, if a blockage was developing around a junction on the M50 at, say, 17.30, it would be possible to slow the traffic heading towards that blockage using variable speeds as displayed on the gantries until the blockage was cleared, at which point the speed limit could be raised to normal again.

This will assist in managing M50 traffic volumes and in making optimal use of the existing infrastructure, using systems that are common in Europe. The key benefits are:

- **Economic:** By improving traffic flow at more congested times, the project will help M50 journey time reliability, thereby assisting more precise trip planning by road users.
- **Safety:** The project should help to reduce the frequency and severity of M50 vehicle collisions, especially as demand grows.

The total cost of the project is €79.4m, consisting of €53.3m capital plus €26.1m in operation and maintenance costs over 10 years.

At present, installation of variable message signs and lane control signals on overhead gantries is ongoing. A 'soft launch' of the VSL system on the section of the motorway from J4 to J6 is expected in July. Civil works are ongoing to install gantries on J14 to J17 section of the motorway. Rollout of the system will continue on a phased basis as the equipment installation is completed. Actual implementation cannot occur however until the legislation is in place. When the legislation is enacted, TII expects that there

will be a “bedding-in” period to allow road users to become acquainted with the system, prior to any enforcement action being taken for non-compliance.

The Legislation

Underpinning legislation is required to allow TII to set Variable Speed Limits and deploy the Red X system on the M50. This is provided for in the Bill.

The legislation will involve amendments to the Road Traffic Acts in two areas. First, amendments will be necessary to allow TII to provide the necessary signage. Second, it will be necessary to empower TII to set the actual speed limits for the variable speed limit system. TII will be given these powers in relation to motorways, and the Minister will be given the power to extend them to given national roads by means of regulations. These provisions will allow the extension of similar measures to other motorways and possibly to particular national roads at a later date if required.

The Minister may wish to note that, in the legislation, the powers in question will still refer to the ‘National Roads Authority’ rather than TII, although it will be TII exercising the powers.

Possible Further Legal Issue

The Minister may also wish to note that the Office of the Attorney General has drafted provisions to allow for the setting of speed limits but TII has raised concerns about the mechanism provided for in the draft. Speed limit legislation is based on default limits for different classes of roads, with local authorities then allowed to set ‘special speed limits’ on specific roads in their areas. The draft provisions for TII would allow them the power to set special speed limits for the variable speed limit system. However, special speed limits must be set in bye-laws, and the flexibility needed for variable limits – they might be lowered at short notice to allow a traffic build-up to clear and then lowered soon after when it clears – would not be available if each change required a bye-law. The AG’s office is looking at alternatives, and it may be that the published Bill will contain the current draft as a place-holder and be amended during passage of the Bill.

Local Authority Traffic Warden FCNs

Fixed charge notices (FCNs) are issued for certain offences under the Road Traffic Acts as the first stage of response to an offence, before going to court. People are given the option of paying a fixed charge on an administrative basis rather than facing a court and the possibility of receiving a record of a conviction.

FCNs may be issued by the Garda for any offences declared to be fixed charge offences may be issued by the Garda. Local authority traffic wardens may also issue FCNs for parking offences. The two FCN systems have a different legislative basis.

In 2010, the legislation governing FCNs issued by the Garda was completely revised and updated. One aspect of this was that a great deal of additional detail on procedure was set out in the legislation. The main practical change at that time was the introduction of the so-called 'Third Payment Option.' Since the introduction of the FCN system, a fixed charge can be paid within 28 days, after which the charge plus 50% can be paid within a further 28 days. If no payment is made after 56 days, court proceedings are initiated.

It became clear that some people did not engage seriously with the system until they received a summons to court, by which time it was too late to pay the fixed charge. The 2010 amendment therefore introduced a system whereby a person who has not paid the fixed charge after 56 days will receive a final opportunity, notified along with the court summons, to pay the fixed charge plus 100% no later than 7 days before the date of the court appearance. If they do so, court proceedings are discontinued.

These changes to the Garda fixed charge system are now being replicated for the system of FCNs issued by traffic wardens. This will mean that the procedures - with suitable adaptations - which apply to Garda FCNs will now apply to traffic warden FCNs. It will also mean that there will now be a 'third payment option' for traffic warden FCNs.

Fraudulent use of disabled parking permit

Background: Disabled Parking Permit Fraud

The Disabled Parking Permit (also known as the European Parking Card or Disabled Parking Badge) is available to people living in Ireland whose mobility is severely restricted, whether they are drivers or passengers, and also to those who are registered blind. The intention of this permit, and of the Disabled Parking Scheme more generally, is to provide access to parking bays of sufficient size in close proximity to important services such as post offices, banks, pharmacies and shops, for people for whom access to such services would be denied if they could not park and disembark either because of the size of a parking bay or because they could not park within a short distance of a service because of their limited mobility.

A motorist who parks in a disabled space without a permit currently faces a €150 fixed charge notice.

Operation Enable, a multi-agency initiative launched in 2017 between An Garda Síochána, Dublin City Council, the Irish Wheelchair Association and the Disabled Drivers Association, revealed that the incidence of permit fraud significantly higher than had previously been assumed. Permit fraud can mean either people falsely applying for and receiving a disabled parking permit, or falsely using a permit issued to someone else.

As permit fraud is not currently recorded as a separate offence on the Garda PULSE system it is not possible for An Garda Síochána to include it in official Garda statistics. The Department understands from An Garda Síochána, however, that whenever the force carries out a targeted day of parking permit enforcement it will – in a single city, in a single day -generally uncover up to half a dozen permits being used fraudulently.

Perpetrators who use legitimate permits fraudulently cannot at present be prosecuted for fraudulent permit use. The permits are merely seized and returned to the relevant issuing body, the Irish Wheelchair Association or the Disabled Drivers Association of Ireland.

While Guards and traffic wardens occasionally come across members of the public attempting to use photocopied or falsified permits, Garda experience would suggest that **by far the most common occurrence of permit fraud** is where a legitimate permit is used for personal gain by a person who is not the named permit holder. The culprit will usually be family member who might decide to use a parent's or grandparent's

permit to park in a disabled bay for free while at work or out shopping. The permit holder themselves is, more often than not, entirely unaware that their permit is being misused.

An Garda Síochána has also come across numerous examples of family members continuing to use the permits of relatives who have since died. The two bodies responsible for issuing permits, the IWA and the DDAI, have in fact reported cases of families trying to *renew* the permits of relatives *after* they have died. There is at present no specific penalty for making of a fraudulent permit application, other than the denial of a permit itself.

Legislation

As indicated above, there are two points at issue, false applications and fraudulent use of legitimate permits.

On the matter of false applications, the legislation will make provision of false information in relation to regulations made under section 35(2)(m), (s), or (t) of the Road Traffic 1994 an offence. These are the provision underpinning the disabled parking permit system. The new legislation will enable prosecution of people making fraudulent applications for disabled parking permits, with penalties of a fine of up to €2,500 (a class C fine) and/or up to six months in prison.

It had been intended to make new provision in primary legislation to address fraudulent use of disabled parking permits. However, the Attorney General's Office has advised that this is not needed in the Bill, as it can be addressed in regulations.

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Amendments re Penalty Points disqualification periods

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 present Bill amends section 6 to 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.

‘Special and substantial reason’ defence with preliminary specimens

Section 22 of the Road Traffic Act 2010 provides for defences which may be offered when a person refuses or fails 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 a straight line etc. to determine whether a person is intoxicated).

On the advice of the Attorney General, this legislation is being amended to provide for a defence of a ‘special and substantial reason’ for refusal or failure to provide a preliminary specimen. Preliminary specimens are those provided at the roadside to assist the Garda in forming an opinion as to whether a person has taken drink or another intoxicant. This includes roadside breath tests and roadside tests of oral fluid for drugs.

Emergency Driving Instruction

Section 87 allows for exemptions from certain road traffic legislation for the emergency services – An Garda Síochána, ambulance and fire brigade services. This is the section which allows emergency services to break speed limits, drive through red lights, or against the flow of traffic, among other things. The exemption does not apply to careless or dangerous driving, or to intoxicated driving offences.

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 allow 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.

N-Plates

The Road Traffic Act 2014 created the concept of a novice driver, i.e. someone in the first two years of their first driving licence. Among other requirements, novice drivers must display an N-Plate on their vehicle, in the same way that learners must display an L-Plate. For novice (and learner) motorcyclists, the equivalent is a tabard worn on the torso, back and front.

The details of the L-Plate are set in regulations, but section 4 of the 2014 Act set out details for the N-Plate. This is not consistent, and means that any changes to specifications of the N-Plate would mean that the Act had to be amended. The Bill will therefore amend the 2014 Act to all for specifications of N-Plates and tabards to be prescribed in regulations, as is done with L-Plates and tabards.

Insurer access to endorsements and disqualifications

Section 5 of the Road Traffic Act 2014 allows vehicle insurers to access to penalty points on driver licence records when they are issuing or renewing policies. The Bill will amend this in three ways –

- It will allow checks to be made during the ‘processing’ of policies – this means that in addition to checks at issue/renewal, insurers will be able to check between these times when policies are being amended, particularly where a new driver is being added to a policy.
- It will allow insurers to see information about disqualifications as well as penalty points

Both of 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 for more careful drivers.

Automated Vehicles

In recent years a great deal of work has been done on development of Automated Vehicles (AVs). There are many elements of AV technology increasingly found as standard in cars, such as self-parking mode and technology to keep vehicles in lanes. However, fully automated vehicles which could complete a journey safely without driver intervention are still perhaps well over a decade away, in spite of occasional much more optimistic claims from the industry.

At present, the main focus of AV development is in relation to **testing**. As new technologies are developed and work on AVs advances, testing in real-life, on-street environments is essential. While this is positive, in the sense that AVs if and when they work will increase safety on roads, it raises legislative and safety issues in the immediate term.

The difficulty with regard to legislation and AV testing is that the Road Traffic Acts assume throughout that when a mechanically propelled vehicle is moving in traffic in a public place, there is a human in control as the driver. This raises questions about how autonomous vehicles might legally be tested on Irish roads. It is intended that testing will mean vehicles driving autonomously for periods on public roads, but that there will always be a human in the vehicle observing and capable of intervening and taking over if required. As there is already at least one manufacturer – Jaguar-Land Rover – operating in Ireland and seeking to move to on-street testing, allowing for testing has immediate job and economic implications.

In December 2019 the then Government agreed to legislate to allow for AV testing on public roads. The question has been how. The Department commissioned a review of the legislation which identified the specific areas of the Road Traffic Acts which would need to be amended, or whose effect would need to be changed, in order to allow for testing of AVs. The review was received in January 2021, and the issue has since been discussed in detail with the Office of the Attorney General.

The result is that a new definition will be provided for ‘autonomous vehicle’ – not previously defined in the Road Traffic Acts – and the definition of ‘driving’ and related words will be amended to include monitoring in the case of autonomous vehicles. The effect will be that testing will be allowable, with the person behind the wheel being legally the driver when they are simply monitoring the operation of the AV systems. If they have to intervene and take charge they will, of course, become the ‘driver’ in the normal sense of the word.

Guidelines for AV Testing

Following a public consultation in Quarter 1 2021, Guidelines for the testing of autonomous vehicles will be developed through 2021. Other important work is also ongoing in relation to connected and autonomous vehicles. The Department and its agencies, the National Transport Authority (NTA) and Transport Infrastructure Ireland (TII), are engaging in UN and EU fora on AVs and are closely monitoring developments at EU and international level. Work has begun on a strategic roadmap and plan for AVs, which will set out at a high level the actions needed across the entire system over the coming years to drive the development of the connected and autonomous mobility sector in Ireland and to prepare for the introduction of AVs. The roadmap and strategy will take a whole-of-Government approach. A public consultation has recently concluded and is being reviewed.

Important work is also ongoing by TII in relation to connected (rather than autonomous) vehicles. By way of example, TII received funding under the Connecting Europe Facility to run a Co-operative Intelligent Transport Systems (C-ITS) pilot project, which focuses on connected vehicle services. The C-ITS pilot is being deployed on the M1, M50 through to the N7, M7 motorway to Limerick, M8, N18 and M18 around Shannon. The pilot will trial a number of vehicle to vehicle (V2V) and vehicle to infrastructure (V2I) services on select sections of the route, using a communications network that will include short range Wi-Fi (known as ITS-G5) and standard cellular communications.

The C-ITS pilot links in well with the new Future Mobility Campus Ireland (FMCI) that is being established in the Limerick-Shannon metropolitan area at Shannon Free Zone, Co. Clare. FMCI will create and deliver future mobility testbed facilities for stimulating research, development and innovation in the area of Autonomous Connected Electric Shared Vehicles, including Connected and Autonomous Vehicles (CAV) in Ireland. It aims to deliver a test facility located in real-world settings, providing technology companies and researchers with the ability to test and enhance their innovations. The testbed will be equipped with multiple sensors, located throughout the site, along with high accuracy location systems, a data management and control centre and two sensor equipped test vehicles. This setup will provide the facilities and expertise to harness valuable sensor data, simulate environments and trial new technologies. In 2020, FMCI received €4.7m in Regional Enterprise Development Funding from Enterprise Ireland.

Scramblers etc

The anti-social use of scramblers and other vehicles, particularly in parks and amenities, has caused considerable difficulty, creating both a real danger to the public and an ongoing nuisance problem which undermines the value of public parks and amenities.

The Programme for Government commits to –

‘Enhance powers available to An Garda Síochána to limit the use of scramblers and quads by those engaged in antisocial behaviour and enact legislation to add to those powers, if needed.’

The Bill will contain provisions to address this. After much discussion, and on the advice of the Attorney General –

The Bill will create a new ministerial power to make regulations which will declare specified vehicles to be prohibited or restricted. This will enable regulations to be made which will address the use of scramblers and similar vehicles in places where they are not appropriate, such as parks and amenities.

The Garda will be empowered to detain and dispose of vehicles used contrary to the new legislation. They will also have power to enter premises where vehicles are kept, so that they can seize vehicles suspected of having been used contrary to the new regulations.

Powered Personal Transporters (PPTs) and eBikes

Escooters etc.

Escooters and other similar vehicles have recently proliferated and become very popular. As Irish legislation was not written with vehicles of this type in mind, they fall by default into the category of ‘mechanically propelled vehicles’ (MPVs). It is illegal to use an MPV in a public place without tax, insurance, and a driving licence. As it is not possible to tax a vehicle which is not type-approved (and escooters are not) and as there is no category of driving licence for an escooter, their use is by default illegal.

The Programme for Government commits to legislating to allow the use of escooters.

Categorization of Vehicles in Road Traffic Legislation

The approach to be taken in the legislation will be to amend the Road Traffic Acts to create a new class of vehicles called ‘Powered Personal Transporters’ (PPTs), which will include escooters. This approach is being taken in order to future-proof governing legislation and to account for the development of new vehicles in this class.

The proposed definition will set a maximum weight for PPTs and a speed range (no less than 6km/h, no more than 25km/h is proposed).

Incorporation of PPTs into existing Road Traffic Act Provisions

Once defined, PPTs will be incorporated into the existing legislative framework and will utilize the wide range of powers and offences that already exist in road traffic legislation. This will permit the Minister for Transport to regulate for the use/misuse and the standards for different types of powered personal transporters, for example through the introduction of Regulations for e-scooters.

Furthermore, the existing offences and powers of An Garda Síochána in road traffic legislation concerning careless/dangerous driving, driving a vehicle that is not roadworthy, driving under the influence of an intoxicant etc. can also then be extended to users of powered personal transporters where required.

E-Scooter Regulations

Once the necessary amendments to primary road traffic legislation have taken place and a policy position on the safe use of e-scooters on public roads has been finalized, e-scooter Regulations can be introduced governing areas such as –

- technical standards:
 - Weights and dimensions;
 - Batteries;
 - Tyres
 - Safety components (e.g. lights and brakes);
 - Maximum speed/wattage;
 - Certification or quality assurance of standards.
- equipment and driver equipment;
- Use of e-scooters in road traffic;
- prohibition of e-scooter usage in certain public places (e.g. footpaths and pedestrianised areas).

E-Scooter Policy

Separate to the legislative amendments already submitted, a clear policy position on the use of e-scooters on public roads is necessary. The policy position has been examined taking into account the research conducted by TRL on behalf of the RSA, a public consultation carried out by this Department, and other policy papers and studies on how PPT schemes operate in other Member States. Road Safety Division prepared a draft policy proposals paper for consideration by Minister Ryan.

A number of areas have been examined such as road use, speeds, age limits, licensing, vehicle insurance and registration that require decisions in advance of finalizing the draft primary legislation, as those areas are not governed by secondary legislation but by the Road Traffic Acts themselves. Minister Ryan issued a letter to a group of the main stakeholders in roads and vehicle safety seeking their observations and input into the policy proposals. The responses were generally in favour of the proposed policy, although there were three areas of concern: a lower age limit, insurance and the wearing of PPE.

- **Lower Age Limit**

No lower age limit was suggested in the proposals and it was left as an open question. The general consensus is that an age limit of between 16 and 18 is appropriate, since these are still motorized vehicles despite the change in legal definition, so users of these vehicles should be treated similarly to novice drivers. There are widespread concerns about the number of younger teenagers and indeed children who are currently using these vehicles in public.

- **Insurance**

The issue of insurance is more complex and almost all respondents to Minister Ryan's letter feel greater emphasis should be placed on owners taking out insurance. Insurance Ireland and the Motor Insurance Bureau of Ireland (MIBI) feel this is of particular importance. The MIBI point out that owners/users of these vehicles will be personally liable in the event of an accident or collision so they should have the appropriate insurance. They also make the important point that PPTs will not be covered by the MIBI Guarantee Fund, which only caters for accident victims of motor traffic accidents caused by uninsured and untraced MPVs. It should be noted that requirements for insurance cannot be part of any regulations, but will require primary legislation.

- **Personal Protective Equipment (PPE)**

The policy proposals state that the use of high vis clothing and a helmet is strongly recommended but will not be mandatory. A number of respondent organizations believe they should be a mandatory requirement enshrined in legislation, and not just a recommendation. An Garda Síochána recommend that a type approved safety helmet and high vis vest should be a minimum mandatory requirement.

- **Enforcement**

With all three issues raised above, the question of enforcement is an important consideration. Responsibility for enforcement and how they will be enforced must be decided prior to making regulations for the use of these vehicles.

Rental Schemes

Rental shared schemes are also very popular in a number of countries where these vehicles are used and a number of operators of such schemes have already expressed an interest in establishing operations here following enactment of the proposed legislation. To date however, work on development of the legislation and policy within the Department has focused on the legalization of PPTs and their use/safety. Further work will be needed on the issue of regulating rental schemes.

Ebikes

It is government policy to promote the use of ebikes. At present, the legislation is confusing around the status of ebikes, and leaves them in a confusing gap between pedal bicycles, as defined in law, and mechanically propelled vehicles, as defined in law. The difficulty is in part due to the spectrum of vehicles in existence, some of which are 'almost bipedal cycles' whereas some would be 'almost moped.'

It is now proposed to rectify this and provide clarity for users of ebikes by amending the definitions in the Road Traffic Acts to set a clear dividing line between vehicles

which are lower-powered and will be classified as pedal bicycles, and vehicles which are sufficiently highly powered to be classified as mechanically propelled vehicles. These new definitions will also be applied to e-tricycles.

Pedal bicycles (or tricycles) will be defined to include bicycles equipped with an auxiliary electric motor –

- (i) which has a maximum continuous rated power less than or equal to 0.25 kilowatts, and
- (ii) the output of which cuts off when those physical exertions stop, and is otherwise progressively reduced and finally cut off before the bicycle reaches the speed of 25 kilometres per hour.

Bicycles with more powerful motors will be classed as mechanically propelled vehicles.

This amendment will provide clarity for users. It will also promote safety, to the extent that more powerful vehicles will be classed as mechanically propelled and subject to the rules applying to mechanically propelled vehicles in the interests of public safety, while lighter-powered vehicles will be unambiguously treated in the same manner as (other) pedal bicycles.

Revocation of Driving Licences

The Bill will contain a provision to revoke a licence under certain circumstances. Because this provision may intersect with other legislation, for example immigration law, road traffic law and data protection law, it will need to be legislated for taking into consideration the principles of EU law and the Constitution. In that regard the Department is consulting with the Department of Justice and the Office of the Parliamentary Counsel. It is expected that the revocation provision will be introduced at Committee Stage.

Evidential Breath Test

It is proposed on the advice of the Attorney General to amend section 13 of the Road Traffic Act 2010 to allow the Minister to prescribe in regulations the degrees of variation permitted in the measurement of the concentration of alcohol in evidential breath specimens.

Under section 12(1)(a) of the Road Traffic Act 2010, the Garda may in certain circumstances require of a person under arrest that they provide 2 specimens of breath, to be provided by exhaling into an apparatus for determining the concentration of alcohol in breath. Section 13 of the Act provides for 'procedure following provision of breath specimen under section 12.' As is normal in much scientific equipment, there is a margin of error applied in the measurements taken by these machines. The margin is applied to the benefit of the person tested.

On foot of advice of the Attorney General, it has been decided that the Minister should be empowered to set the level of this margin of error in regulations.

The proposed amendment will refer to 'degrees of variation' rather than 'the degree of variation.' This is because there are several critical thresholds applied in law, with different margins of error applied in each case. These thresholds are -

- The standard breath alcohol limit in the law - exceeding 22 microgrammes of alcohol per hundred millilitres of breath (sections 4 and 5 of the 2010 Act);
- The level for specified drivers (learners, novices, and professional drivers) - exceeding 9 microgrammes of alcohol per hundred millilitres of breath (sections 4 and 5 of the 2010 Act);
- Thresholds for consequential disqualification under section 26 of the Road Traffic Act 1961 - this provides for four different bands of ascending levels of alcohol in breath, with different periods of disqualification, depending on whether a person who was over the legal limit had, in 100 millilitres of breath, an amount of alcohol (a) not exceeding 35 microgrammes, (b), exceeding 35 but not exceeding 44, (c) exceeding 44 but not exceeding 66, and (d) exceeding 66.

It should be noted that standard procedure is it to apply the variation to the advantage of the accused, i.e. to reduce the measurement obtained by the variation, and then to round down the figure obtained to the nearest whole number. As a result, the actual figure obtained will be the variation plus the amount of the rounding (which may of course be zero). In no case is the person tested placed at a disadvantage - an individual who benefitted from a lesser rounding cannot claim to have been disadvantaged, as the

rounding will result in the same final figure, whether, for example, a reading of 22.4 was rounded to 22 or a reading of 22.1 was rounded to 22.

Driving Instruction

Approved Driving Instructors (ADIs) provide car, motorbike, bus and truck driving lessons to the public and are vital partners to the Road Safety Authority (RSA) in building and maintaining a safer driver culture in Ireland.

Section 18 of the Road Traffic Act 1968 empowers the Minister to make regulations governing the provision of driving instruction for reward. Driving instruction has been regulated since 2009 under the Road Traffic (Driving Instructor Licensing) (No. 2) Regulations 2009 (SI 203 of 2009).

A new section 18A is being inserted into the Road Traffic Act 1968 to provide that ADIs are fit and proper persons to give driving instruction. Under the new section, an ADI convicted of certain specified offences will be disqualified for life from holding an instructor's licence. Other convictions will carry disqualifications for limited periods.

The Register of Approved Driving Instructors was established under regulation 17 of the 2009 Regulations. The Department considers it prudent to set out the power for the maintenance of the Register in primary legislation. Section 18 of the 1968 Act is being amended to provide for this.

Other amendments to Section 18 of the 1968 Act provide for technical amendments.

Topical Issues Regarding Driving Instruction

Question

Why are washing facilities and waiting rooms closed to driving instructors at driver test centres?

Answer

Both my Department and the Road Safety Authority (RSA) are aware that driving instructors disagree with the RSA decision to close washing facilities and waiting rooms at driver test centres. This decision was made to ensure compliance with public and occupational health requirements during the Covid-19 pandemic.

I understand from the RSA that, prior to the pandemic, some test centres offered toilet facilities, and in some cases indoor waiting rooms, for instructors while their students were having their driving test. Some test centres do not have, and have never had, large waiting rooms or toilet facilities available for instructors.

I understand that, currently, toilet facilities at test centres are only available to learner drivers who are undertaking a driving test. There are no waiting area facilities available in any centres for learners or instructors. The learner is contacted by phone while outside the centre and is then invited inside by the driver tester.

ADIs consider that they should have access to public areas of test centres. However, this would introduce third parties into the test centre, without the same robust controls as are in place for test candidates. Twenty of the current fifty-three driving test centres are in shared premises, over which the RSA does not control access. In others, such as the Finglas Test Centre, the RSA does control access. This is one of the largest test centres and up to 14 driver testers work there on a daily basis. However, there is no Service Officer on duty to control access, so if access were granted to ADIs and accompanying drivers, any member of the public could walk in, compromising the public safety measures in place.

The RSA decision to temporarily close public toilet and waiting facilities, where previously available, was in the interest of public safety and part of its overall Covid-19 Resumption of Services Protocols, in line with health and safety risk assessment procedures which had to be adopted as part of the RSA's resumption plans. It took account of Health and Safety Authority guidance and the Return to Work Safely Protocol agreed by the Labour and Employer Economic Forum (LEEF).

This decision was not taken lightly. However, I am sure you will agree that the health and safety of workers, such as those in driving test centres, should be our priority.

The RSA is committed to ensuring that, once risk has diminished to allow ADIs and others who accompany test candidates to access test centres, this will be facilitated.

The RSA will continue to monitor review the situation, subject to any change to current Government guidance.

BusConnects

The Department of Transport wish to include 4 additional legislative proposals in the published Road Traffic Bill 2021 to amend existing legislation to support the delivery of BusConnects. Including these amendments in the published Road Traffic Bill will ensure the necessary provisions are in place as soon as possible to support the submission of the BusConnects planning application by the NTA to An Bord Pleanála.

BusConnects is recognised in the National Planning Framework as a key growth enabler for Dublin and a core component of National Strategic Outcome 4: Sustainable Mobility. It will represent the largest ever investment programme in bus infrastructure and services and seeks to fundamentally transform the bus network in the Dublin region.

This legislation is largely technical in nature and comprises proposals to clarify and strengthen existing legislative provisions. The preparation of the proposals was informed, in particular, by extensive engagement with key stakeholders including the NTA. Failure to address the issues, which are outlined below, could militate against the timely delivery of planning approval for BusConnects. The Proposals include 3 amendments to the Roads Act 1993, and one amendment to the Dublin Transport Authority Act 2008 as follows:

- **Amendment to the definition of a “road” in the Roads Act 1993:** The proposed amendment provides for the inclusion of a number of specific terms into the definition of a road for consistency and the removal of doubt as to what constitutes part of the road.
- **Amendment to Section 13 of the Roads Act 1993:** The amendments to section 13(8) of the Roads Act are critical to clarify the powers of the road authority in relation to works *“on, in, under, or over a public road”*, as some such works will also be *“under”* the road, and the insertion of a new subsection (7A) gives a road authority the power to carry out works for the necessary reconfiguration of the road.
- **Insertion of a new Section 51AA of the Roads Act 1993:** This amendment outlines the circumstances under which An Bord Pleanála shall approve a scheme or a proposed road development that contravenes materially any development plan or any local area plan.
- **Amendment to Section 44 of the Dublin Transport Authority Act 2008:** The first amendment in this section relates to the requirement to acquire lands for

mitigation purposes, permitting the compulsory acquisition of ground for such things as compensatory habitat development, or replacement parking. The second proposed amendment seeks to make sure that the interpretation that the NTA could be seen as stepping into the role of a “local authority” cannot arise.

Conclusion: Significant engagement with the Office of the Attorney General has taken place on the proposals and, while the drafting has not yet been finalised, the detailed drafting process is progressing well and is expected to be concluded very shortly. The amendments proposed will support Government’s ambition in the area of megaproject delivery and ensure its delivery is complemented by a robust and appropriate legislative framework.