

DÁIL ÉIREANN

SELECT SUB-COMMITTEE ON TRANSPORT, TOURISM AND SPORT

Dé Céadaoin, 25 Meán Fómhair 2013

Wednesday, 25 September 2013

The Select Sub-Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Paudie Coffey,	Deputy Patrick O'Donovan,
Deputy Timmy Dooley,	Deputy Seán Kenny,
Deputy Dessie Ellis,	Deputy Helen McEntee,
Deputy Tom Fleming,	Deputy Ann Phelan.
Deputy Alan Kelly (Minister of State at the Department of Transport, Tourism and Sport),	

In attendance: Deputy Eamonn Maloney.

DEPUTY JOHN O'MAHONY IN THE CHAIR.

Taxi Regulation Bill 2012: Committee Stage

Chairman: This meeting has been convened to consider the Taxi Regulation Bill 2012, the purpose of which is to reform regulation of the taxi industry, repeal the Taxi Regulation Act 2003 and certain other legislation specific to taxi services and restate and update their provisions. I welcome the Minister of State at the Department of Transport, Tourism and Sport, Deputy Alan Kelly, and his officials. As amendments have been proposed, there are groupings. Members should note that the text proposed to be inserted by amendment No. 65 is to be inserted before the word “under” where it secondly occurs on page 50, line 14.

Section 1 agreed to.

SECTION 2

Chairman: Amendments Nos. 1 to 4, inclusive, are related and will be discussed together.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Alan Kelly): I move amendment No. 1:

In page 8, between lines 12 and 13, to insert the following:

“ “change in control”, in relation to a company, has the meaning assigned to it in section 16(4);”.

I would appreciate members’ co-operation in dealing with the large number of technical amendments that I intend to move in order that we can debate in detail the substantive amendments that have also been tabled. Amendment No. 1 is a technical amendment; amendments Nos. 2 and 3 are drafting amendments, while amendment No. 4 introduces a minor drafting change.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 2:

In page 8, line 15, after “formed” to insert “and registered”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 3:

In page 8, to delete lines 16 and 17.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 4:

In page 8, line 38, to delete “of” and substitute “to”.

Amendment agreed to.

Section 2, as amended, agreed to.

SECTION 3

Chairman: Amendments Nos. 5 to 7, inclusive, are related and will be discussed together.

Deputy Alan Kelly: I move amendment No. 5:

In page 9, subsection (1), line 12, to delete “*section 7, 8, 13(13) or 19*” and substitute “this Act”.

Amendments Nos. 5 to 7, inclusive, concern the general provisions of section 3 of the Bill on the making of regulations and orders which must be laid before the Houses of the Oireachtas which has the option of passing a resolution annulling the regulation or order. These are drafting amendments which involve cross-references to the provisions of section 3 and all relevant provisions in the Bill where the licensing authority or the Minister has powers to make regulations or orders. Amendment No. 6 relates to section 6 which provides for the Minister to transfer licensing responsibilities from the Garda Síochána to the NTA. An order under section 6 will now be subject to the requirements of section 3 and will, therefore, have to be laid before the Houses.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 6:

In page 9, subsection (1), line 13, to delete “*section 23*” and substitute “*section 6 or 23*”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 7:

In page 9, subsection (3), line 31, to delete “regulations, rules” and substitute “regulations”.

Amendment agreed to.

Section 3, as amended, agreed to.

Sections 4 to 6, inclusive, agreed to.

SECTION 7

Chairman: Amendments Nos. 8, 9 and 11 to 14, inclusive, will be discussed together.

Deputy Alan Kelly: I move amendment No. 8:

In page 11, subsection (2), between lines 17 and 18, to insert the following:

“(j) in the case of the renewal of a licence, the period within which an application for the renewal of the licence has to be made before the expiry of the existing licence;”.

This amendment provides that the authority can specify in regulations under section 7 the period within which a renewal application has to be made before the licence expires. Amendment No. 9 is a minor drafting amendment.

Amendment No. 11 to section 9 provides that the licensing authority can determine the documentation, information and fees that constitute a complete application. It can also refuse to grant an application for renewal if such documentation, information or fees are not submitted within the prescribed period. This is a necessary provision which addresses the problem of

incomplete licence renewal applications which can result in a licence continuing in force for a number of months until the licensing authority can successfully pursue the licence holder for the necessary accompanying documentation, information or fees.

Amendment No. 12 is a minor drafting amendment. Amendment No. 13 clarifies that an application under subsection (14) means an application that is complete with documentation, information and fees. Amendment No. 14 provides for the definitions of the terms “appropriate fee” and “tax clearance certificate” which are required under the section.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 9:

In page 12, subsection (5), line 11, after “gives” to insert “such”.

Amendment agreed to.

Section 7, as amended, agreed to.

SECTION 8

Deputy Timmy Dooley: I move amendment No. 10:

In page 12, to delete line 19 and substitute the following:

“8.—(1) A licence shall not be granted to an applicant unless he or she has been vetted by the Garda Vetting Unit.

(2) The Authority may by regulations (“assessment”.

I have some concerns about the assessment of applicants with regard to their suitability and potential health issues. The legislation will give powers to the licensing authority to develop regulations and the word “may” is used such that the authority may by regulations establish requirements. We are not being prescriptive enough. At a minimum, I suggest inserting a provision to require vetting by the Garda vetting unit of the applicant as an initial clearance. I have no difficulty with the authority having the power at a later stage to set out further or more intricate requirements. At a minimum, however, it would be appropriate for any individual involved in the carrying for hire of citizens be vetted by the Garda vetting unit.

Deputy Alan Kelly: I understand the reasons the Deputy has tabled the amendment. Provision is made for the NTA to have anyone seeking a vehicle licence vetted. Anyone who looks for a driver’s licence is vetted every five years. Vehicle licences are granted every year and the NTA can vet anyone if required and there is reasonable cause to do so. This is enough power for the NTA which it can use as necessary. Another reason I am not willing to accept the amendment - the Deputy will appreciate this - is that as vehicle licences are issued annually vetting would have to be undertaken in hundreds of thousands of instances. I accept the bona fides of the Deputy and the reasonable arguments he has made, but it would require a huge amount of extra manpower to go through all of the licence applications. The NTA has the capacity to do so where necessary and I believe this is sufficient.

Deputy Timmy Dooley: I am concerned because it is not mandatory. I accept that it would take time to implement and I am prepared not to push it if I receive a commitment from the Minister of State to examine this issue prior to Report Stage and that he will consider having

everyone involved vetted over a period of time, for example, in the next three years from today whereby all individuals involved in the taxi business or work for hire would be appropriately vetted. This would mean that it would not have to be done by the next renewal date because I accept this process would be cumbersome and labour intensive. Once somebody was vetted, it could, as in the case of a medical check, remain valid for three to five years. There are concerns that people with a significant criminal past find their way into the industry and that this has not been taken into account. We need a stronger requirement that the NTA, over a period of time, ensure anybody involved in the business be subject to some level of Garda checks. It is not beyond the capacity of the Minister of State, the Department and the rest of us to come up with a workable solution which would not burden the vetting unit or make this a recurring requirement on an annual basis.

Deputy Alan Kelly: I accept the Deputy's bona fides and will work closely with the NTA to examine the overall vetting regulations. There is a requirement that those applying for licences should declare any serious conviction. Where the NTA suspects this is not happening, it has the capacity to request people to be vetted. As I have stated, there would be a serious manpower issue and safety nets are already in place. I will commit to work with the NTA to examine the most feasible option to ensure everybody will declare his conviction. We will double-check to ensure vetting which is required is happening.

Deputy Timmy Dooley: I accept that. Concerns have been expressed by limousine and hackney licence holders whose vehicles are owned by private companies regarding an individual who may be a director of the company which holds the licence. I understand changes to the regulations made since last September preclude such persons from obtaining an SGS pass for the second part of the process of changing a vehicle. Is it possible to table an amendment to resolve this issue?

Deputy Alan Kelly: When a vehicle is to be used or rented, everything, including the vehicle and insurance, is put in one package. All committee members know the reasons for this, as we all saw the "Prime Time Investigates" programme on the taxi industry. Perhaps there are specific isolated issues which the NTA must examine, but I understand they are being ironed out.

Deputy Timmy Dooley: I accept that the Minister of State's view is that it is a matter for the NTA to work out, but it will place a burden on some of the companies which must seek a new licence in the company name. Such companies usually began with a hackney or limousine operator who grew his or her business and perhaps bought a bus or two to do school runs or engage in work for hire. This person is now insured and financed through a company and will be burdened because the company must take out a new limousine or hackney licence.

Deputy Alan Kelly: I understand the issue being raised by the Deputy. There is a very good argument that vehicle licences and vehicle registration should be in the same name, for obvious reasons. There are isolated anomalies, as the Deputy noted, but the principle is right and-----

Deputy Timmy Dooley: I have no problem with the principle. The point is to allow a transfer of licence in the first instance.

Deputy Alan Kelly: Having said that, as I understand it, the NTA is looking into this issue and it is quite confident it can be mitigated and resolved.

Deputy Timmy Dooley: I reserve the right to table an amendment on Report Stage if there is not an adequate response from the NTA to resolve the issue. It is allowing these operators to tidy up their business and to transfer in the existing licence. I accept that one cannot transfer a licence but where the company and the directors are effectively all the one, a mechanism should be found to allow this to happen.

Amendment, by leave, withdrawn.

Section 8 agreed to.

SECTION 9

Deputy Alan Kelly: I move amendment No. 11:

In page 13, lines 27 to 33, to delete subsection (2) and substitute the following:

“(2) An application for the grant of a licence shall be in such form and accompanied by the appropriate fee and such information and documentation as the licensing authority determines.

(3) The licensing authority shall refuse an application for the grant of a licence where the application is not accompanied by the appropriate fee.

(4) The licensing authority may refuse an application for the grant of a licence where the applicant fails to provide to the licensing authority information or documentation required by this Act or regulations made thereunder.”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 12:

In page 14, subsection (14), line 31, to delete “prescribed” and substitute “provided”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 13:

In page 14, between lines 33 and 34, to insert the following subsection:

“(15) *Subsection (14)* does not apply to an application referred to in that subsection where the application is not accompanied by information or documentation required by this Act or regulations made thereunder.”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 14:

In page 14, lines 38 to 40, to delete subsection (16) and substitute the following:

“(16) In this section—

“appropriate fee” means the fee provided under licensing regulations to be charged in respect of an application for a licence;

“tax clearance certificate” means a tax clearance certificate issued under section

1095 (inserted by section 127 of the Finance Act 2002) of the Taxes Consolidation Act 1997.”.

Amendment agreed to.

Section 9, as amended, agreed to.

SECTION 10

Chairman: Amendments Nos. 15 and 50 to 54, inclusive, are related and may be discussed together.

Deputy Dessie Ellis: I move amendment No. 15:

In page 15, subsection (2), between lines 9 and 10, to insert the following:

“(d) the exclusion for consideration under this section of any conviction covered by the terms of the Good Friday Agreement 1998;”.

I have raised the issue with the Minister on a number of occasions. Many people who are involved in the taxi industry have signed up to the Good Friday Agreement. I and my colleagues believe these people should be excluded from the provision on convictions, which would send out a very strong message of support for the peace process and indicate that people who have been involved in the Good Friday Agreement are not going to be penalised in their jobs or otherwise at this stage.

We have taken legal advice in this regard, and the legal advice is that this should not be introduced with a retrospective nature for people who come under the Good Friday Agreement. I ask the Minister of State to think again. I feel that members of the Government have dug in their heels on this, probably for political reasons. We have to look at the long-term repercussions in that we could have a court case. While I am not saying it will come to that, to be on the safe side, we should be protecting these people.

Deputy Alan Kelly: These amendments seek dispensation in this Bill for those convicted of offences covered by the terms of the Good Friday Agreement. However, it is inappropriate for me to specify such an exclusion in the context of this proposed legislation. I remind Deputies that this is a taxi Bill. Section 10 of the Bill provides for the consideration of such offences in the assessment of suitability of a licence applicant or licence holder. Sections 28 and 29 concern mandatory disqualification for conviction for the most serious of offences and an obligation to notify conviction of these offences to the licensing authority.

The point at issue in the taxi legislation is the safety of passengers, who are in a vulnerable position in a taxi. Nevertheless, because of the restriction that this places over the ability of persons to participate in the industry, the grounds for mandatory disqualification is for legal reasons narrowly defined. It is not possible in legislation to seek to further define instances where there may be mitigating circumstances that justify the non-application of the disqualification. This is the reason the Taxi Regulation Bill makes specific provision for an appeal to the courts in regard to mandatory disqualification - so that exceptions are possible where the courts determine it appropriate. The courts are positioned to make that kind of judgment. It is clearly stated in section 28, subsection (10), that in determining whether to grant or refuse such an application the court can have regard to any other matter that it considers relevant.

I am not prepared to accept an amendment to this Bill that would give special treatment to

one category of convicts. If there are grounds for special treatment, then the courts can deal with it. It is simply not appropriate in this Bill.

Deputy Dessie Ellis: The Minister of State has made his position very clear. Why do we have to go down the road of retrospection in regard to these issues? The Minister of State said people must go to the courts, but this could involve suspension and result in people being out of work for a period. It could cause a lot of hardship for people who have committed themselves not just to the Good Friday Agreement but also to their work, where they may have been working for many years. There are people who are exceptional and who should be counted as exceptional, and we should provide for that. It is wrong to say we can ignore an international agreement that has been put in place and not cater for the people who are under that international agreement. It is wrong. I believe a mechanism could be found to deal with this. It is not good enough for a person to have to go to the court to fight his or her corner. I will press the amendment.

Deputy Paudie Coffey: The Deputy proposing the amendment said we should not be retrospective, but that is exactly what he has done by proposing the amendment. The Good Friday Agreement was agreed by the citizens of the State and it had nothing in it regarding the Taxi Regulation Bill or licensing. If that was the intention - and the Deputy's party was very involved in the Good Friday Agreement, as we all acknowledge - that was the time it should have been discussed and agreed, if the citizens would have agreed to it.

I support the Minister of State. This is a matter of passenger safety and the suitability of licence holders. I doubt very much that citizens of this country want to be driven around by people with serious convictions - that is the first point. Second, by the very fact of their having convictions they have made themselves targets, and that in itself would passengers in their taxis at risk. I certainly will not be supporting this amendment for those reasons - namely, passenger safety and the suitability of licence holders. This is a taxi Bill, not a rehash of the Good Friday Agreement.

Deputy Patrick O'Donovan: To follow on from the previous speaker, one of the consequences of what Deputy Ellis is proposing is that the whole concept of Garda clearance would be thrown up in the air for every aspect of work in the public service, be it at voluntary or paid level. Is it suggested that because a child abuser has gone through some sort of rehabilitation, that person is suitable to go back to work in child care? Naturally enough, nobody is suggesting that. It would set an extremely dangerous precedent if people who had potentially been convicted of murder, explosives charges or a whole range of offences were driving people around in taxis, with, as Deputy Coffey said, those people themselves being legitimate targets as well.

When it comes to issues north of the Border, we have seen all too recently that there is still an awfully long way to go, and that goes also for people who are engaged in less than civil proceedings on this side of the Border. There is an awfully long way to go. It is a pity the Good Friday Agreement is being politicised in this fashion. I do not know of anybody who voted on the Good Friday Agreement who would want or intended their vote to be used to allow people convicted of the most serious crimes to be awarded taxi licences.

Deputy Seán Kenny: Deputy Dessie Ellis did say this could never happen or might never happen. As far as I understand, we are talking about a hypothetical situation. It has been pointed out that there are appeal procedures to the court available to anybody who considers he or she has been excluded from acquiring a licence. I question the relevance of the amendment but do not want to dwell on the issue. I support the Good Friday Agreement. It was a fantastic

solution and is something we all support. Trying to bring it into a debate on a Bill that deals with taxi licences seems irrelevant.

Deputy Alan Kelly: Any issue around the treatment of different categories of offences or offenders should be debated under the spent convictions Bill. That is the correct legislation under which to debate the matter, not the Taxi Regulation Bill. Obviously, this is a serious matter, but there is a broader issue. The Criminal Justice (Spent Convictions) Bill has been passed by the Seanad and is being dealt with in the Dáil and the matter raised could be discussed during that debate. I note that Deputy Dessie Ellis's party did not table any amendment on this topic for debate in the Seanad on the legislation. There was no reference to the Good Friday Agreement in that context or any other related areas. The Deputy might examine the matter.

Deputy Dessie Ellis: I believe we did refer to it in the Seanad. I accept that there is an argument that we should work on the issue in the debate on the spent convictions Bill. I accept that argument in seeking a mechanism to deal with the issue.

I wish to return to some of the remarks made by Deputies Patrick O'Donovan and Paudie Coffey. We are talking about people who are covered under the Good Friday Agreement. As far as I am concerned, if anyone covered by the Good Friday Agreement committed an offence in the industry after the Agreement, he or she is at the mercy of the law.

Deputy Patrick O'Donovan: We are talking about people who are found guilty of committing a crime.

Deputy Dessie Ellis: I know the Deputy has a bone to pick with republicans. That is very clear.

Deputy Patrick O'Donovan: Now the truth is coming out.

Chairman: Deputy Dessie Ellis has the floor.

Deputy Dessie Ellis: We have to call a spade a spade.

Deputy Patrick O'Donovan: Let us call a spade a spade.

Deputy Dessie Ellis: I will call a spade a spade.

Deputy Patrick O'Donovan: Perhaps the Deputy might enlighten us about his past.

Deputy Dessie Ellis: I do not deny that I am a republican. However, I am not going to go down the road-----

Deputy Timmy Dooley: On a point of order, we have a lot of amendments to get through. I am not trying to tell the Chairman how to do his business, but I do not think we should get into badger baiting today.

Deputy Dessie Ellis: I am not going to get into badger baiting; I do not equate someone-----

Deputy Timmy Dooley: The Deputy should not let my comments upset him.

Deputy Dessie Ellis: No. It is very wrong to equate someone involved in serious crime with republicans and persons covered by the Good Friday Agreement. I do not accept the comparison.

Amendment put and declared lost.

Section 10 agreed to.

NEW SECTION

Chairman: Amendments Nos. 16 to 19, inclusive, are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 16:

In page 15, before section 11, to insert the following new section:

11.—(1) Where a person who makes an application for a licence to drive a small public service vehicle is engaged in another occupation, the person when making the application shall—

(a) inform the licensing authority of this fact and the nature of the occupation and, if employed by another, the name and principal business address of the employer, and

(b) where the other occupation involves driving a vehicle, show to the satisfaction of the licensing authority, that he or she has informed in writing any employer of his or hers connected with that occupation, of his or her intention to make an application for the licence.

(2) Where the holder of a licence to drive a small public service vehicle becomes engaged in another occupation, the person shall—

(a) inform in writing the licensing authority of this fact and the nature of the employment and, if employed by another, the name and principal business address of the employer, and

(b) where the other occupation involves driving a vehicle, show to the satisfaction of the licensing authority, that he or she has informed in writing any employer of his or hers connected with that other occupation, that he or she is the holder of a licence to drive a small public service vehicle and carries on the business of driving a small public service vehicle for hire or reward.

(3) *Subsection (1)(b) or (2)(b)* does not apply to a vehicle used solely in connection with agricultural activities on a farm.

(4) A person who fails to inform the licensing authority of the information required under this section or gives such information to the licensing authority knowing it to be false or misleading commits an offence and is liable on summary conviction to a class A fine.”.

Action 3 of the taxi regulation review report 2011 aims to ensure, in the case of part-time drivers, improved compliance with working time legislation. The issue came under the spotlight in the “Prime Time Investigates” programme broadcast in May 2011 whereby part-time SPSV drivers were found to be engaged in other employment driving public service vehicles and driving excessively long hours at a risk to the safety of passengers, themselves and other road users. I am sure all of the Deputies present are aware of the issue.

While the policy principle underpinning the section concerning the regulation of SPSV drivers' hours for the purposes of passenger and road safety is sound, I am informed by the advisory counsel in the Attorney General's office that some aspects of section 11, depending on how it is interpreted and applied, could give rise to a legal challenge concerning a person's rights. The amendment will allow for an obligation on a licence applicant or holder in the case of all other employment to inform the authority and that in the case of other employment involving driving a vehicle the person has an added obligation to show to the authority that the employer has been notified.

I am assured by the advisory counsel that such a provision will not raise difficulties in terms of constitutional rights or rights under the European Convention on Human Rights. It is entirely reasonable that the Oireachtas can require that an employer, where the other occupation involves driving, be aware of the fact that an employee may be driving a taxi in order that the employer in question can satisfy himself or herself that the employee is capable of safely discharging driving activities connected with his or her employment. The provisions of section 11 will relate to the NTA powers under section 19 to make SPSV regulations concerning the period a driver may drive an SPSV, which would apply to both whole-time and part-time taxi drivers, and the intervals of rest between driving an SPSV having driven a vehicle in the course of other employment. In addition, the section makes it an offence under section 11(4) to fail to provide for the licensing authority the information on other occupations required by the section. The offence under section 11(4) is proposed as a fixed payment offence for the purposes of section 46 and as a demerit offence for the purposes of Part 5 of the Bill.

Deputy Timmy Dooley: I welcome the amendment as I raised the matter on Second Stage. It will be helpful in dealing with the concerns expressed by a lot of people, particularly those concerned about the inability of part-time operators to effectively provide a safe service. It also strengthens the intention, even though that was unintentional. As a side effect, the business will be strengthened and made viable. I hope the provision will take some of the part-timers out of the business who damage and affect the ability of full-time taxi drivers to make a meaningful wage. I, therefore, welcome the amendment.

Chairman: I remind Members that amendments Nos. 16 to 19, inclusive, are being discussed together. Does Deputy Dessie Ellis wish to comment?

Deputy Dessie Ellis: No.

Amendment agreed to.

Deputy Dessie Ellis: My proposed amendment No. 17 stated:

In page 15, subsection (1)(b), line 29, after "which" to insert "constitutes full time employment and, or".

Will the Minister of State confirm whether a limit has been set on the amount of hours worked? Is it less than 39 hours? I have tabled the amendment because I am unclear on the matter.

Chairman: The idea was that amendments Nos. 17 to 19, inclusive, would be discussed with amendment No. 16. I do not think we can discuss them further.

Deputy Dessie Ellis: Will the Minister of State respond to my query?

Deputy Alan Kelly: I shall respond.

Deputy Dessie Ellis: Yes, please.

Deputy Alan Kelly: I know what the Deputy is referring to and, in a spirit of co-operation, shall respond. The proposed amendments seek to ensure section 11 would specifically refer to persons holding or applying for a taxi licence who are also in other full-time employment, thereby leading to a constraint for full-time employees in other occupations from operating in the taxi industry. I understand where the Deputy is coming from and appreciate his concerns. I sympathise with full-time taxi drivers in the industry who operate in compliance with the regulations and find themselves in an increasingly competitive working environment and working longer hours with less potential to attract fares than in stronger economic times. However, as I have explained regarding the proposed restatement of section 11, there are very narrow parameters within which the obligation to inform the authority of other occupations can be applied. I have really gone as far as I can, legally, in this respect. It is something we needed to work on as we had to ensure the issue was completely defined, with less potential of legal risk concerning a person's constitutional rights. It is therefore not appropriate for me to introduce amendments Nos. 17 to 19, inclusive, as the Deputy requires.

Sometimes we talk about the taxi industry and automatically think of Dublin, Cork, Limerick and Galway etc. The amendments proposed by the Deputy are well-meaning but they would have a dramatic impact on rural Ireland, where being a taxi driver is a part-time occupation. I understand the spirit of the amendments but I cannot accept them. Through the qualitative changes being effected by taxi regulations through the National Transport Authority and this legislation, I expect the conditions in the industry to improve. My intention is to support the full-time taxi drivers to whom the Deputy refers.

Section 11 deleted.

Amendments Nos. 17 to 19, inclusive, not moved.

SECTION 12

Chairman: Amendments Nos. 20 to 25, inclusive are related and may be discussed together.

Deputy Timmy Dooley: I move amendment No. 20:

In page 18, between lines 13 and 14, to insert the following subsection:

“(5) All decisions by the licensing authority which have the effect of limiting or interfering with the licence holder's ability to operate the licence shall be reviewed at the request of the licence holder, such request to be made within two weeks of the said decision to an independent adjudicator (such as the Office of the Ombudsman) for independent review.”.

We propose to delete a subsection and replace it with some language seeking to deal with a dispute that might arise between the licensing authority and a licence holder. The provisions in the Bill as it stands allow for the licensing authority to remove a licence from a licence holder but we are of the view that this should be done in an independent fashion. I suggest that any decisions by the authority “with the effect of limiting or interfering with the licence holder's ability to operate the licence shall be reviewed at the request of the licence holder,” with “such request to be made within two weeks of the said decision to an independent adju-

icator”, and we suggest the Office of the Ombudsman for independent review. If the Minister of State accepts the spirit of what I am saying, I am open to his views on how this might be done in an independent fashion.

Deputy Alan Kelly: It is not clear why it is proposed to delete this part of section 12, as the Deputy has also proposed an amendment to provide that decisions made under section 12 should be subject to independent review.

Deputy Timmy Dooley: To clarify, if there were to be an authority, the conditions would reside elsewhere. I do not have a problem in principle with the mechanism.

Deputy Alan Kelly: I understand. It is like a domino effect. I cannot agree to the deletion of section 12, which provides for the revocation of a licence or in some circumstances the suspension of a licence. The Deputy has clarified his position.

Action 22 of the taxi regulation review report recommended the commencement of section 35 of the Taxi Regulation Act 2003 concerning the appeal of a decision to refuse to grant, suspend or revoke a licence. The Taxi Regulation Act 2003 envisages that the NTA would make regulations with regard to the criteria for revocation or suspension of a licence. However, given the risk of challenge based on the constitutional principle concerning the right of a licence holder to earn a livelihood, which we have heard of in the courts, the view of the Office of the Parliamentary Counsel was that the principles and criteria upon which the licensing authority would make such decisions should be set out in primary legislation in the Bill. I must take it on board, as the Deputy knows.

The licensing authority may revoke a licence if it is satisfied the person is no longer suitable to hold the licence and with regard to whether the person has contravened the obligations on a licence holder, including conditions of the licence or a code of practice and the nature and extent of the contravention. There is also regard to failure or refusal to supply required information, or supply of false or misleading information; conviction of offences; requirements for health and safety of passengers and other road users, conduct of the person, or member of a company, which calls into question their suitability, as referred to earlier; and representations received by the licence holder.

Contravention of licensing obligations, including the supply of information as required under the Bill and related regulations or licensing conditions could also lead to a suspension of a licence for a period no greater than three months. The licensing authority may also decide to issue a notice to the licence holder with a reprimand, warning, caution or advice, on its own discretion. Section 13 of the Bill provides for a comprehensive system of representations and appeals concerning licensing decisions by the licensing authority.

It is not possible to provide in this Bill for the type of independent appeal being sought in this amendment. As I understand it, the Office of the Ombudsman is not permitted to undertake investigations into matters that can be appealed to the court. I do not consider that an appeal to the Ombudsman is more appropriate than an appeal to the court, and in this instance I will not be able to accept the Deputy’s amendment.

Amendment, by leave, withdrawn.

Section 12 agreed to.

SECTION 13

Deputy Alan Kelly: I move amendment No. 21:

In page 18, subsection (1), line 19, to delete “within 14 days” and substitute “not later than 14 days”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 22:

In page 18, subsection (1), line 20, to delete “after the date” and substitute “from the date of the service”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 23:

In page 18, subsection (3), line 34, to delete “within 28 days after the date of the notification” and substitute the following:

“not later than 28 days from the date of the service of the notification”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 24:

In page 18, subsection (6), line 47, after “ordinarily” to insert “resides or”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 25:

In page 19, subsection (8), line 5, to delete “within 28 days of” and substitute the following:

“not later than 28 days from the date of the service of the”.

Amendment agreed to.

Section 13, as amended, agreed to.

SECTION 14

Deputy Timmy Dooley: I move amendment No. 26:

In page 19, between lines 32 and 33, to insert the following subsection:

“(3) A licence holder shall be prohibited from renting his or her licence or taxi to a holder of a stamp 2 visa.”.

The Minister of State has already introduced a section which I complimented that deals with the part-time issue that has bedevilled the industry. This issue deals specifically with stamp

2 licence holders. The Minister of State would know the stamp 2 visa is provided to a person permitted to remain in Ireland to pursue a course of studies on condition that the holder does not engage in any business or profession other than casual employment, which is defined as 20 hours per week while undertaking study during the school term, or up to 40 hours per week during school holidays. This visa is meant to allow people avail of education facilities in this country, and it is generally accepted that any temporary work - although not specifically pointed out - would be related to the direction of their education. It provided for people who may come to the country to study hotel management or work in the catering sector, for example.

It is appropriate that we extend the exclusion to take into account individuals who are here for the purposes outlined and who have a stamp 2 visa. I hope the Minister of State will be able to accept the amendment.

Deputy Alan Kelly: It is not possible for me to accept amendment No. 26, although I have considerable sympathy for the Deputy. I want to gain some technical details because we must take some serious advice on the issue. I have sympathy for the frustrations of many operators in the industry on it. The number who have sought to get into the industry under the stamp 2 provisions is not as high as one might think. I checked this with the National Transport Authority, NTA. The Department of Justice and Equality has responsibility for the immigration legislation governing this area. That Department has advised against inserting such an amendment in primary legislation relating to taxis as such issues are best regulated on a general basis within the framework of immigration law.

The conditions under which immigrants may engage in paid employment on a limited basis are subject to review by the Minister for Justice and Equality. This is a taxi regulation Bill and it is primarily for the Minister to consider whether there are abuses that justify a change. However, it is open to the NTA to make regulations under section 19 of the Bill for SPSVs, including rental arrangements. It has indicated that it will consider, in conjunction with the Department of Justice and Equality, whether a provision along the lines suggested by the Deputy might be incorporated into secondary legislation. I have discussed this issue in detail with the authority and assure the Deputy that I will keep him updated on it. It is my intention to pursue the matter vigorously. The Department of Justice and Equality considers it would not be helpful to include a provision in primary legislation. Let me give an example as to why. A stamp 2 visa in 2013 could be very different from what it might be in 2014. It could change the very emphasis of the Bill. I have asked the NTA to prioritise the issue with the Department of Justice and Equality within secondary legislation in order to deal with this the matter which I agree should be dealt with.

Deputy Timmy Dooley: On the basis that the Minister of State accepts in principle the spirit of what I am trying to achieve and has indicated that what I desire will be provided for in secondary legislation, I am prepared to withdraw my amendment.

Deputy Dessie Ellis: Obviously, the immigration authorities are responsible for this matter. Is it not the norm across Europe that students can enter the industry for 20 hours, or for 40 during holiday periods?

Deputy Alan Kelly: To be honest, I do not know the intricacies of the taxi industry across Europe. I can verify, however, that the stamp 2 visa issue is primarily one for the Department of Justice and Equality. I understand there are probably trans-European principles or unwritten agreements in this space as regards students, etc. Broadly, they are probably necessary. We send students around Europe as much as other countries send them here. Through secondary legislation, we can define the context according to which the stamp 2 visas can be used. I refer

to areas outside Europe. On that basis, we will try to ensure the matter is dealt with through secondary legislation.

Amendment, by leave, withdrawn.

Section 14 agreed to.

Section 15 agreed to.

NEW SECTION

Deputy Alan Kelly: I move amendment No. 27:

In page 20, before section 16, to insert the following new section:

16.—(1) Subject to *subsection (2)*, where a company holds a licence, in the event of a change in control of the company—

(a) the licence stands revoked from the date of the change in control, and

(b) the company shall notify in writing the Authority of the change in control and return the licence to the Authority with the notification, not later than 14 days from the date of change in control of the company.

(2) Where there is a change in control of a company which holds a licence arising from the death of a member of the company *subsection (1)* does not apply.

(3) A company who fails to comply with *subsection (1)(b)* commits an offence and is liable on summary conviction to a class A fine.

(4) In this section “change in control”, in relation to a company, means—

(a) a change in the person who controls the company (within the meaning of section 432(2) of the Taxes Consolidation Act 1997), or

(b) the acquisition or disposal in one transaction or a series of transactions of shares in the company amounting in value to half, or more, of those issued by the company.”.

While the transfer of an SPSV licence is prohibited under section 14 of the Bill, this restriction is capable of being circumvented where the licence is held in the name of a company rather than an individual by a transfer of ownership of the company. This issue was raised with me previously. There are 929 SPSV licences out of just under 23,000 vehicle licences held by companies. This amounts to 4%. Provision for the granting of further licences to companies is contained in section 9(7) of the Bill. All applicants for licences are required to meet the suitability requirements set out in section 10. Subsection (2)(e) contains specific measures relating to the suitability of members of companies.

The two key policy principles underlying the prohibition on transfer are that a licence should not have a value, which most Deputies accept, and that a licence should determine a person’s suitability to carry out a function, which most Deputies will also accept. However, where a company that holds a taxi licence is sold, there is potential to realise a value relating to a taxi licence - that is not open to an individual - and there is a possibility to enter the taxi business without the suitability checks envisaged in section 10, although it is acknowledged that this would be addressed at the time of licence renewal.

The amendment provides that, in the case of a licence held by a company, upon the change in control in the company, that is, when the person or persons who control the company change or there is a change of half or more of the company shareholding in one or more transactions, the licence stands revoked. The exception is where the change in control is as a result of death. I discussed this issue with a number of the taxi unions and following those discussions, I acceded to their request. The new provision ensures there is parity between all SPSV licence holders with regard to the prohibition on transfer of a licence, whether the licence is held by a company or an individual. This is a very reasonable amendment.

Amendment agreed to.

SECTION 16

Chairman: Amendments Nos. 28 to 31, inclusive, are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 28:

In page 20, subsection (1)(a), line 7, after “than” to insert “a revocation”.

These are drafting amendments. Amendment No. 28 clarifies that a revocation of a licence under section 45, issued by a court judge upon conviction of an offence, is excluded from the obligations under section 16 to return a licence, badge, disc or other signage, as required. Amendment No. 29 clarifies that the number of days is 21 within which a licence holder must return to the licensing authority a licence, badge, disc or other signage, as required. Amendment No. 30 clarifies that the period is 21 days within which a licence holder must notify the licensing authority of a change of address of his or her residence or registered office. Amendment No. 31 provides for an increase in the fine as is appropriate for non-compliance with the requirements to notify the licensing authority of a change of address under section 16 from a class E fine to a class D fine, that is, from €500 to €1,000. The amendments are minor and really clarifications.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 29:

In page 20, subsection (1)(i), line 12, to delete “within 14 days” and substitute “not later than 21 days”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 30:

In page 20, subsection (3), line 36, to delete “within 14 days” and substitute “not later than 21 days”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 31:

In page 20, subsection (4), lines 40 and 41, to delete “class E fine” and substitute “class D fine”.

Amendment agreed to.

Section 16, as amended, agreed to.

Sections 17 and 18 agreed to.

SECTION 19

Deputy Dessie Ellis: I move amendment No. 32:

In page 25, subsection (1), lines 38 to 40, to delete paragraph (i).

Deputy Alan Kelly: I will not be accepting this amendment. This provision under section 19 of the Bill enables the NTA to make regulations concerning standard of conduct, general behaviour, deportment or dress of persons operating SPSVs. This is a restatement and clarification of the existing provision under section 34(6) of the Taxi Regulation Act 2003, as passed by the Houses of the Oireachtas, providing that the authority can specify conditions and requirements of SPSV drivers concerning their general behaviour, dress code and conduct. The NTA receives numerous complaints about these issues. Regulations made in this area can only improve and promote standards of professionalism in the industry. As with all of the powers conferred on the NTA, it is incumbent on it to ensure that these powers are exercised reasonably.

Chairman: Is the amendment being pressed?

Deputy Dessie Ellis: Yes. I wish to be assured that the Minister for Transport is not proposing to introduce a dress code of any description for people driving taxis.

Deputy Alan Kelly: For a start, the Minister would not be getting into that level of detail. That is a matter for the NTA, but I do not think there are any such plans. Certainly, I have not heard of any and I would not support them.

Deputy Dessie Ellis: We have had enough problems trying to deal with dress codes in this House.

Deputy Alan Kelly: I would say the Deputy is safe enough on that one. I am not speaking on behalf of the NTA but I reckon the Deputy is safe enough on that one.

Amendment, by leave, withdrawn.

Section 19 agreed to.

Section 20 agreed to.

SECTION 21

Chairman: Amendments Nos. 33 to 36, inclusive, are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 33:

In page 28, to delete lines 1 to 3 and substitute the following:

“21.—(1) This section does not apply to—

(a) a person driving or using a bus (within the meaning of section 2 of the Act of 2009)—

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(i) in the operation of a public bus passenger service (within the meaning of section 2 of the Act of 2009), or

(ii) which has been hired, other than in a public place, for the carriage for reward of passengers,

and

(b) in relation to *subsection (1)*, a person driving or using a mechanically propelled vehicle in accordance with *section 50** or *53***.

(2) A person shall not drive or use a mechanically propelled vehicle to which this section applies in a public place for the carriage of persons for hire or reward unless—”.

These are purely drafting and technical amendments. Amendment No. 33 provides in subsection (1) for the exclusion from the prohibition of operating without an SPSV licence under section 21 of the Bill for, first, a person driving or using a bus, and, second, a person driving or using a mechanically propelled vehicle under the proposed new Part 7 - that is, a community car service or other non-taxi service specified under that Part. Amendment No. 34 provides for the inclusion of additional text in subsection (2) as a drafting improvement. Amendment 35 is to correct a cross-reference omission, while amendment 36 deletes definitions in subsection (6) of the Bill, which have now been catered for in the proposed redrafting of the exclusions from section 21, as provided for in the new subsection (1).

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 34:

In page 28, subsection (2), line 12, after “vehicle” to insert “to which this section applies”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 35:

In page 28, subsection (5), line 27, to delete “*subsection*” and substitute “*subsection (4)*”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 36:

In page 29, subsection (6), lines 2 to 8, to delete all words from and including “stand;” in line 2 down to and including “passengers.” in line 8 and substitute “stand.”.

Amendment agreed to.

Section 21, as amended, agreed to.

Section 22 agreed to.

SECTION 23

Chairman: Amendments Nos. 37 to 48, inclusive, are related and may be discussed together.

Deputy Timmy Dooley: I move amendment No. 37:

In page 30, subsection (1), line 2, to delete “maximum” where it firstly occurs and substitute “national”.

It is not a major issue but the amendments sets out that there will be a national fare. It is appropriate that the same fare is in existence across the State and that we enshrine that principle in the legislation.

Deputy Alan Kelly: I understand that the intention underpinning these amendments is to limit the scope for the discounting of taxi fares. While I will not be accepting the amendments, I have some sympathy with the proposal, which seeks to address the concerns of many taxi drivers who feel that they are regularly being undercut by other taxi operators. This is one of a number of amendments with which I have some degree of sympathy. However, I must deal with this from a legal and regulatory perspective and accept the advice that is given. It is not possible to make such a legislative provision in the Bill which would effectively create a price floor. The taximeter area for the purposes of setting a maximum fare is the State, as provided for in the Bill. Under the provisions of the Taxi Regulation Act 2003, the setting of maximum taxi fares is a statutory function of the NTA. A review of taxi fares is carried out every two years by the authority. Under the fares review this year, the NTA put forward a proposal to simplify the overall fare structure and to provide an approximate 3.6% to 4% increase in the maximum allowable fares. However, following consultation with the taxi advisory committee and the various different taxi groups, it was decided not to make any changes to the existing fares structure.

It is important that legitimate and compliant operators are not undermined by rogue operators who cut costs by not adhering to the rules. A major focus of the reforms that I am bringing to the taxi sector is to make it impossible for non-compliant operators to continue in business. We have already set up data-sharing arrangements between the NTA and both the Office of the Revenue Commissioners and the Department of Social Protection, which has yielded some very interesting information. In the Bill we are providing for a much more effective enforcement regime through the demerit system and expanded provisions for on-the-spot fines. This is a better approach to promoting fair competition rather than having rigid pricing.

Deputy Dessie Ellis: I am not sure why the term “national” is preferred over “maximum”. I would be happy to leave the section as it is. I am not clear on Deputy Dooley’s intention. I do not know if there is such a thing as a national fare, as such.

Deputy Timmy Dooley: Just to clarify, the purpose behind the amendment is to effectively set the price for the provision of the service. Where there is just a maximum, it is open to operators to decide on the price and to set the price for a journey at whatever level they choose. That poses problems whereby some people ignore the rules and regulations, ply for trade for a relatively short period of time, undercut the compliant taxi drivers and thereby undermine the entire taxi system. While I accept the Minister’s position on it, I believe it is important to highlight the issue. Hopefully it is something which can be addressed through full enforcement of the regulations.

Deputy Alan Kelly: I accept the spirit in which this amendment was tabled and I believe the issue can be dealt with.

Amendment, by leave, withdrawn.

Amendments Nos. 38 to 48, inclusive, not moved.

Section 23 agreed to.

Sections 24 and 25 agreed to.

NEW SECTION

Deputy Alan Kelly: I move amendment No. 49:

In page 33, before section 26, to insert the following new section:

26.—(1) A person shall not promote, offer or advertise the service of a small public service vehicle for hire when at the time of the promotion, offer or advertisement the person does not hold a licence to provide the service for which the vehicle is to be hired or there is no licence in force in respect of a small public service vehicle to which the promotion, offer or advertisement relates.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a class A fine.

(3) An authorised person may enter any premises (other than a private dwelling, without the consent of the occupier of the dwelling) or place where he or she has reasonable grounds to believe that a person is promoting, offering or advertising the service of a small public service vehicle for hire and—

(a) inspect the premises or place and any promotional or advertising material or printed matter or information (in whatever form held) relating to the hire of a small public service vehicle,

(b) request such information as is reasonable from any person whom he or she suspects is promoting, offering or advertising such services, and

(c) require the name and address of the person.

(4) Where an authorised person is satisfied that a person is promoting, offering or advertising services contrary to *subsection (1)*, he or she may—

(a) seize and detain printed matter or material relating to such services, and

(b) require any person he or she considers is promoting, offering or advertising such services to immediately cease that activity.

(5) A person who claims an interest in printed matter or materials seized under *subsection (4)(a)* may, not later than 30 days after the date on which the thing was seized, apply to a judge of the District Court within whose district the seizure was effected for an order directing the return to that person of the matter or material and the judge shall, on the hearing of the application—

(a) if satisfied that the seizure under *subsection (4)(a)* was properly carried out, confirm the seizure and detention, or

(b) if not so satisfied, order the return to the person of the matter or material seized.

(6) A judge of the District Court may adjourn the hearing of an application made to him or her under *subsection (5)* until the conclusion of any proceedings under *subsection (8)* relating to the matter concerned.

(7) Where a person who claims an interest in matter or material seized and detained under *subsection (4)*—

(a) does not make an application to the District Court within the period referred to in *subsection (5)* or does make such an application within that period and the Court dismisses the application or the person withdraws it,

or

(b) does not apply within the relevant time for its release, the Authority may dispose of it.

(8) A person who—

(a) obstructs an authorised person in seizing or detaining matter or material under *subsection (4)(a)*, or

(b) fails to comply with a requirement of an authorised person under *subsection (4)(b)*,

commits an offence and is liable on summary conviction to a class A fine.”.

This proposed new section makes it an offence to promote, offer or advertise an unlicensed small public service vehicle.

I doubt Deputies would have a concern about this because it is an anomaly that needed to be dealt with. The NTA has received a substantial number of complaints about persons offering unlicensed vehicles for booking online, in newspapers and other publications and at venues such as wedding fairs. This is a source of significant frustration for licensed operators who operate licensed vehicles. Wedding cars are displayed at wedding fairs and bookings for them are taken on the day of the fair. However, at the time of booking the vehicle is not licensed. If operators are unlicensed the NTA enforcement officers have no right to examine their records and see what bookings they have taken. Up until they provide the service, they have done nothing illegal. This makes it virtually impossible to enforce the provisions. It is an unforeseen anomaly.

Without knowing what bookings were taken, the NTA enforcement officers cannot know where and when the service will be operated in order to confirm the contravention, notwithstanding the practical issues with stopping wedding or funeral vehicles. On a policy level, this practice of being permitted to advertise while unlicensed, and take bookings for services which are, in general, regulated from a public safety perspective, is encouraging unlicensed activities and is detrimental to the operation of the regulatory system. This is another instance in which I am seeking to ensure that the NTA has the tools at its disposal to protect the interests of compliant service providers. We need to deal with this anomaly and I would appreciate the Deputies’ co-operation.

Deputy Timmy Dooley: I support the amendment. I, too, have been contacted by people who are licensed and who have concerns about people who are hiring cars out from showrooms, particularly for weddings and graduations. The Minister should be careful about funerals and

hearses. We want to ensure we do not cause any difficulties there.

Deputy Alan Kelly: We are safe enough.

Deputy Timmy Dooley: Very good.

Amendment agreed to.

Sections 26 and 27 agreed to.

SECTION 28

Deputy Dessie Ellis: I move amendment No. 50:

In page 35, subsection 1, between lines 36 and 37, to insert the following:

“(d) excluding offences covered by the terms of the Good Friday Agreement 1998.”.

There are three parts to this. Again, I ask the Minister to consider looking at including this.

Amendment put and declared lost.

Deputy Dessie Ellis: I move amendment No. 51:

In page 35, subsection (2), line 39, after “offence” to insert the following:

“not covered by the terms of the Good Friday Agreement 1998”.

Amendment put and declared lost.

Deputy Dessie Ellis: I move amendment No. 52:

In page 37, subsection (5), line 9, after “subsection” to insert the following:

“which is not covered by the terms of the Good Friday Agreement 1998”.

Amendment put and declared lost.

Deputy Alan Kelly: I move amendment No. 53:

In page 38, subsection (13)(b)(i), line 38, after “resides” to insert the following:

“or drives or proposes to drive a small public service vehicle”.

Amendment agreed to.

Section 28, as amended, agreed to.

SECTION 29

Deputy Dessie Ellis: I move amendment No. 54:

In page 39, subsection (1), line 32, after “convicted” to insert the following:

“excluding convictions relating to offences covered by the terms of the Good Friday Agreement 1998”.

Amendment put and declared lost.

Section 29 agreed to.

Section 30 agreed to.

SECTION 31

Deputy Alan Kelly: I move amendment No. 55:

In page 40, line 35, after “licence” to insert “to drive a small public service vehicle”.

This is purely a drafting amendment to create better wording.

Amendment agreed to.

Section 31, as amended, agreed to.

SECTION 32

Chairman: Amendments Nos. 56 to 58, inclusive are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 56:

In page 40, line 37, after “9(4),” to insert “11(4)*,”.

Again, these are technical amendments to prevent cross-referencing across the sections of the Bill. Amendment No. 56 is to include the proposed offence under subsection 11(4) under the demerit scheme in Part 5 of the Bill. Amendment No. 57 provides for the correct cross-reference to reference number 7 in the table under section 33 in the Bill. Amendment No. 58 provides for the inclusion of the proposed offence under subsection 11(4) in the demerit table in section 33 of the Bill.

Amendment agreed to.

Section 32, as amended, agreed to.

SECTION 33

Deputy Alan Kelly: I move amendment No. 57:

In page 41, subsection (1), line 10, to delete “8” and substitute “7”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 58:

In page 43, between lines 12 and 13 to insert the following:

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Amendment agreed to.

Section 33, as amended, agreed to.

Sections 34 to 37, inclusive, agreed to.

SECTION 38

Chairman: Amendments Nos. 59 to 63, inclusive, are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 59:

In page 46, subsection (3)(a), line 27, to delete “licences” and substitute “licences, records”.

Amendments Nos. 59 and 63 are to ensure that records are among the items that can be secured for future inspection under subsection 38(3), paragraphs (a) and (e), by an authorised person. All of these amendments are purely drafting amendments. Amendment No. 60 gives greater clarity and improves the language, amendment No. 61 provides greater clarity concerning the role and functions of an authorised person, and amendment No. 62 provides clarity concerning the role and functions of an authorised person under the Bill in relation to the search, inspection and examination of an SPSV.

Deputy Timmy Dooley: Clarity from the Minister and his Department is always welcome so we could not but accept them.

Deputy Alan Kelly: I thank the Deputy for his continued co-operation and endorsement.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 60:

In page 46, subsection (3)(b), to delete lines 30 and 31 and substitute the following:

“(i) stop a small public service vehicle or vehicle purporting to be such a vehicle, or”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 61:

In page 46, subsection (3), between lines 36 and 37, to insert the following:

“(c) search, inspect and examine a small public service vehicle or vehicle purporting to be such,”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 62:

In page 46, subsection (3)(d), line 42, to delete “search” and substitute “search, inspect and examine”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 63:

In page 46, subsection (3)(e), line 50, to delete “licences” and substitute “licences, records”.

Amendment agreed to.

Section 38, as amended, agreed to.

NEW SECTION

Deputy Alan Kelly: I move amendment No. 64:

In page 47, before section 39, to insert the following new section:

39.—(1) Where an authorised person, having inspected, examined or tested under *section 38* a small public service vehicle or a vehicle purporting to be such a vehicle, is satisfied—

(a) that the vehicle is not roadworthy,

(b) that there is a defect affecting the vehicle rendering it unfit for the carriage of passengers, or

(c) that an approved policy of insurance (within the meaning of section 62 of the Act of 1961) in accordance with regulations made under *section 54* is not in force in respect of the vehicle, he or she may require of the person in charge of the vehicle, or premises where the vehicle is at, that the vehicle not be used (within the meaning of “use” in *section 21(6)*) for the carriage of passengers for hire or reward until an authorised person, following, as appropriate, a further inspection, examination or test of the vehicle at a specified time and place, is satisfied that the vehicle is roadworthy, that the defect has been remedied, that the vehicle is adequately insured or the appropriate standard or requirement is complied with, as the case may be.

(2) In addition to a requirement made under *subsection (1)* concerning a small public service vehicle or a vehicle purporting to be such a vehicle, an authorised person may seize and detain the internal, or external, signage or identification, or both, on or in the vehicle until following a further inspection, examination or test, an authorised person is satisfied that the vehicle is roadworthy, that the defect has been remedied, that the vehicle is adequately insured or the appropriate standard or requirement is complied with, as the case may be.

(3) Where a person fails to comply with *subsection (1)*, an authorised person may seize and detain one or more of the following:

(a) internal, or external, vehicle signage, in or on the vehicle concerned;

(b) any identification, in or on the vehicle concerned;

(c) the vehicle concerned.

(4) Where following a search, inspection or examination of a vehicle under *section 38*, an authorised officer is satisfied that—

(a) the vehicle is not licensed in accordance with licensing regulations, or

(b) the vehicle is carrying or displaying internal or external signage or identification (including a licence number) which does not relate to or apply to the vehicle or which is forged or altered in any way, the officer may seize and detain the signage or identification or the vehicle or all of them.

(5) The Authority may issue guidelines to authorised persons for the purposes of this section.

(6) An authorised person who is not a member of the Garda Síochána shall not seize a vehicle under this section unless accompanied by a member of the Garda Síochána.

(7) A person who claims an interest in a vehicle or internal or external vehicle signage seized under this section may, not later than 60 days after its seizure, apply to a judge of the District Court within whose district the seizure was effected for an order directing the return to that person of the thing and the judge shall upon the hearing of the application—

(a) if satisfied that the seizure of the thing was properly carried out, confirm the seizure and detention, or

(b) if not so satisfied, order the return to the person of the thing seized.

(8) A judge of the District Court may adjourn an application under *subsection (7)* where he or she is satisfied the thing in question is, or is likely to be, required as evidence in any civil or criminal proceedings.

(9) Where a person who claims an interest in a vehicle or internal or external vehicle signage seized under this section—

(a) does not make an application to the District Court within the period referred to in *subsection (7)*, or

(b) does make such an application within that period and the Court dismisses the application or the person withdraws it, the Authority may dispose of it.

(10) The Authority may make regulations providing for the detention, removal, storage and subsequent release or disposal of a thing seized and detained under this section by an authorised person.

(11) Regulations under *subsection (10)* may, in particular and without prejudice to the generality of that subsection—

(a) authorise and provide for the recovery, from the owners of vehicles detained, removed, stored, released or disposed of, of charges in accordance with a prescribed scale, in respect of such detention, removal, storage, release or disposal,

(b) provide that vehicles seized and detained under this section shall not, unless ordered to be returned under *subsection (7)(b)*, be released until any costs associated with the seizure and detention are paid,

(c) provide for the waiver or deferral of the charges mentioned in *paragraph (a)* in such circumstances as may be specified in the regulations,

(d) provide for the release, by or on behalf of persons referred to in *paragraph*

(a), of vehicles removed or stored to such persons and upon such conditions as may be specified in the regulations,

(e) authorise and provide for the sale (or the disposal otherwise than by sale), by or on behalf of persons referred to in *paragraph (a)*, of vehicles removed or stored and provide for the disposal of moneys received in respect of such sale or other disposal,

(f) provide for the release of a vehicle that is not to be further used as a small public service vehicle and any written undertakings to be given in that regard by the person seeking the release.

(12) Where a vehicle is seized under *subsection (3)* in respect of a matter referred to in *paragraph (c) of subsection (1)*, the Authority may release the vehicle where a person who has an interest in the vehicle, within the period referred to in *subsection (7)*, produces to an authorised officer an approved policy of insurance referred to in that paragraph.

(13) Where, before the expiration of the period of 6 months commencing on the date of the disposal of a vehicle by the Authority, a person satisfies the Authority that he or she was the owner of the vehicle at the time of its disposal, the Authority shall pay him or her any proceeds from the disposal less the sum of the charges due for the detention, removal and storage of the vehicle and the expenses reasonably incurred in the disposal of the vehicle.

(14) Any monies paid for the release of a vehicle under this section shall accrue to the Authority and shall be disposed of in a manner determined by the Authority, with the agreement of the Minister and the Minister for Public Expenditure and Reform.”.

Section 39 in the Bill is to be replaced by this proposed amendment. In the amendment, subsections (1) and (4) set out more precisely what constitutes a contravention of the prohibition on the use of vehicles under section 39 for which a vehicle and signage can be seized and detained. These are: the vehicle is unroadworthy or defective, rendering it unfit for the carriage of persons; there is no approved policy of insurance for the vehicle; or the vehicle is not licensed or is carrying SPSV signage which does not relate to the vehicle or is forged.

In particular, the amendment will enable the National Transport Authority to seize the roof sign and the tamper-proof discs when finding a vehicle operating unlicensed. The power is currently provided for under an amendment to section 43(6) of the Taxi Regulation Act 2003, inserted by Schedule 1 of the Public Transport Act 2009, and is very frequently invoked by the National Transport Authority.

To ensure proportionality in the treatment of persons under the section, provision has been made in the amendment for a procedure whereby persons can apply to a judge of a District Court to have their vehicle or items returned. The amendment also provides for a process whereby the authority can dispose of seized vehicles or items and the associated costs. These modifications will ensure that there is a proportionate and legally robust regulatory framework governing the seizure of equipment by the authorities.

Amendment agreed to.

Section 39 deleted.

Sections 40 to 42, inclusive, agreed to.

SECTION 43

Chairman: Members should note that the text proposed to be inserted by amendment No. 65 is to be inserted before the word “under” where it occurs for the second time on line 14 on page 50. Amendments Nos. 65 to 69, inclusive, are related and may be discussed together.

Deputy Alan Kelly: I move amendment No 65:

In page 50, subsection (1), line 14, before “under” to insert “or notification”.

These are drafting amendments. Amendments Nos. 65, 66, 68 and 69 include ‘notifications’, as well as ‘notices’, under the provisions of section 43. Amendment No. 67 provides for the use of ordinary post as sufficient for the purpose of the issue of notices or notifications under subsection (1).

Deputy Paudie Coffey took the Chair.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 66:

In page 50, subsection (1)(b), line 22, after “notices” to insert “or notifications”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 67:

In page 50, subsection (1)(c), line 24, to delete “in a prepaid registered letter”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 68:

In page 50, subsection (1)(d), line 35, after “notice” to insert “or notification”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 69:

In page 50, subsection (1)(d)(ii), line 43, after “notice” to insert “or notification”.

Amendment agreed to.

Section 43, as amended, agreed to.

Section 44 agreed to.

SECTION 45

Vice Chairman: Amendments Nos. 70 to 75, inclusive, are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 70:

In page 51, subsection (2), line 7, to delete “or suspension”.

These are purely drafting amendments. The section does not apply to suspension of a licence. That must be clarified.

Deputy Dessie Ellis: I seek clarification. Does that take away the need for the court to make people aware of any suspension of the licence? I wish to clarify whether that is the case.

Deputy Alan Kelly: Could the Deputy elaborate on his point?

Deputy Dessie Ellis: The impression that has been given is that licences will be suspended but the courts will not make people aware of the suspension.

Deputy Alan Kelly: The courts have the power to revoke a licence and anyone whose licence is revoked will be informed. I do not think anything is going to change in that regard.

Deputy Dessie Ellis: Yes.

Vice Chairman: The Minister said there is a drafting change but if further clarification is required it will be provided.

Deputy Alan Kelly: I can do that, but there will be no change. The amendment does not have an impact on this section.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 71:

In page 51, subsection (3), line 8, to delete “suspended or”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 72:

In page 51, subsection (4), line 14, to delete “suspended or”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 73:

In page 51, subsection (4), line 16, to delete “suspension or”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 74:

In page 51, subsection (5), line 17, to delete “suspended or”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 75:

In page 51, lines 21 and 22, to delete subsection (6).

Amendment agreed to.

Section 45, as amended, agreed to.

SECTION 46

Vice Chairman: Amendments Nos. 76 to 81, inclusive, are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 76:

In page 51, subsection (1), line 25, after “9(4),” to insert “11(4), 16(4),”.

I thank Members for their forbearance. These are all technical amendments. Amendment No. 76 provides for the inclusion of offences under proposed subsection 11(4) and subsection 16(4) as specified in the fixed payment offences under section 46. Amendment No. 77 is a technical amendment to provide for the inclusion of the offence under proposed subsection 26(2) as a specified fixed payment offence under section 46.

Amendments Nos. 78 and 79 are drafting amendments clarifying that the number of days is 28, commencing upon the service of a fixed payment notice. Amendment No. 80 provides for a second payment period, in the case where a person has not made a fixed payment within 28 days of the service of a fixed payment notice under section 46. The second payment period is of a further 28 days and incurs a payment that is 50% greater than the prescribed initial fixed payment amount.

Amendment No. 81 is a technical amendment to clarify that different levels of fixed payments can be specified in regulations by the authority for different contraventions.

Deputy Dessie Ellis: Amendment No. 78 reduces the number of days by two for a person to pay a fixed fine. Is that necessary?

Deputy Alan Kelly: This is a standard provision. The norm is 28 days. There should not have been two extra days in the first place. The Deputy should note that there is another payment period added, which allows for extra time.

Deputy Dessie Ellis: Is that the same as the reduced time to pay specified in amendment No. 80?

Deputy Alan Kelly: Yes.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 77:

In page 51, subsection (1), line 26, after “25(4),” to insert “26(2),”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 78:

In page 51, subsection (1)(b), lines 31 and 32, to delete all words from and including “during” in line 31 down to and including “notice” in line 32 and substitute the following: “, during the period of 28 days beginning on the date specified in the notice,”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 79:

In page 51, subsection (1)(b), line 33, after “in” to insert “the service of”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 80:

In page 51, subsection (1), between lines 34 and 35, to insert the following:

“(c) if the person does not make the payment specified in *paragraph (b)*, during the period of 28 days beginning on the expiration of that period, the person may make a payment as specified in the notice of an amount 50 per cent greater than the prescribed amount referred to in *paragraph (b)*,”.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 81:

In page 52, subsection (4)(a), line 22, to delete “substantial breaches” and substitute “different contraventions”.

Amendment agreed to.

Section 46, as amended, agreed to.

NEW SECTION

Deputy Alan Kelly: I move amendment No. 82:

In page 52, before section 47, to insert the following new section:

47.—(1) A person who is served with a summons in respect of an offence referred to in *section 46(1)* may pay an amount as stated in a notice which may be served with the summons on the person in respect of the alleged offence and in the manner as specified in the notice not later than 7 days before the date specified in the summons on which the charge is to be heard by the court. If the person pays the amount stated in the manner as specified in the notice within that period proceedings in respect of the alleged offence will be discontinued and the person need not attend the court on the day specified in the summons.

(2) A notice served under *subsection (1)* may be served by the Authority.

(3) The amount stated in a notice served with a summons on a person under *subsection (1)* shall be an amount 100 per cent greater than the prescribed amount stated in the fixed payment notice served on the person, in accordance with *section 46*, in respect of the alleged offence.

(4) A payment under *subsection (1)*—

(a) may be received only within the period referred to in *subsection (1)* and in accordance with the payment notice, and

(b) is not recoverable by the person paying it.

(5) The person receiving a payment under *subsection (1)* may issue a receipt for it.

(6) Any sums received under *subsection (1)* shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and

Reform directs.

(7) Where a person is served with a summons in respect of an offence referred to in *section 46(1)*, evidence given by the person that he or she was not served with a fixed payment notice in accordance with *section 46* in respect of the alleged offence is not a defence to the alleged offence.

(8) In this section “summons” means a summons issued under—

(a) section 10 of the Petty Sessions (Ireland) Act 1851, or

(b) the Courts (No. 3) Act 1986.”.

The proposed new section 47 provides that when a person is served with a summons for an offence that is specified in section 46(1) of the Bill - i.e. a fixed payment offence - a notice may issue with the summons allowing for a further period of seven days within which a fixed payment can be made. The payment will be double the amount specified in the original fixed payment notice. This effective third fixed payment period mirrors the provisions under section 44 of the Road Traffic Act 2010 with regard to fixed charge offences for contraventions of the road traffic legislation. It is envisaged that this proposed provision will be commenced at such time as the third payment option comes into effect under road traffic legislation. This facilitates greater clarity concerning the SPSVs that are in future to be specified as fixed payment offences under section 46 of the Bill. Fixed charges are to be enforced by An Garda Síochána as provided for under section 61 of the Bill. This standardises the situation.

Amendment agreed to.

Section 47 agreed to.

NEW SECTIONS

Vice Chairman: Amendments Nos. 83 to 93, inclusive, are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 83:

In page 53, before section 48, but in Part 6, to insert the following new section:

“PART 7

OTHER NON-TAXI SERVICES

CHAPTER 1

Community Transport Service

48.—In this Part—

“approved community transport service” means a community transport service granted an exemption;

“approved vehicle” means a mechanically propelled vehicle approved by the Authority for the purpose of the carriage of passengers in respect of a community transport service;

“approved volunteer driver” means a driver approved by the Authority to drive an approved vehicle to carry a passenger in the course of providing a community transport service;

“charity” means a body of persons or a trust established for charitable purposes only;

“charitable tax exemption” means an exemption from income tax granted, under section 207 of the Taxes Consolidation Act 1997, by the Revenue Commissioners to a charity;

“community transport service” means a transport service provided—

(a) by a person concerned for the social and welfare needs of one or more communities,

(b) without a gain for the person providing the service or another, and

(c) where the fare or payment for a journey or in respect of passengers using the service does not exceed the cost of providing the service in respect of the journey;

“exemption” means an exemption, granted to the operator of a community transport service under *section 50***, from the requirements of licensing regulations;

“volunteer driver” means a person who drives a mechanically propelled vehicle in the course of providing a community transport service and receives no reward for his or her services other than the payment to him or her of any reasonable costs and expenses incurred by him or her.”.

Amendments Nos. 83 to 93, inclusive, constitute a new part of the Bill which provides for the application and grant of an exemption from the prohibition on operating an SPSV service without a licence under section 21 of the Bill. This will remove any ambiguity concerning the continued operation of services such as community transport services and other non-taxi services in the context of licensing requirements under the Bill. This issue has been raised with me by Members from all parties across the House.

Chapter 1 provides for the process of application and grant of exemption by the authority. The criteria for the grant of an exemption are set out in chapter 1. For example, with regard to community transport services, these are differentiated by the fact that they have a charitable tax exemption and are provided for on a non-for-profit basis. Many of these community transport services are currently operated under the rural transport programme which is administered by the NTA and for which I have a responsibility.

Chapter 2 provides for the exemption of other non-taxi services from the SPSV regulations, as specified by regulations by the NTA, setting out the conditions for the grant of such an exemption. The chapter sets out the conditions under which such exemptions can be made - that the vehicle is not being used in the course of carrying on a business; and that the driver receives no reward or gain; or is operating the vehicle under a contract of employment for the carriage of the person who owns or is in possession of the vehicle.

Chapter 3 provides for administration of the exemptions, including a process of representation and appeal with regard to decisions of the NTA concerning exemptions for fees or a register

of exemptions, and for the powers of authorised persons to enforce the exemptions to ensure that the holder of the exemption is operating services in accordance with the exemption as granted by the NTA in its terms and conditions.

These amendments are essentially to establish a clear regulatory framework that takes account of the variety of services now being provided and to ensure that the offence provisions in the Act are clearly targeted.

I have received representations on this issue from a broad political spectrum in order to deal with an anomaly that has continued for many years. That is why I have chosen to deal with it in this part of the Bill. It took a while to introduce the legal clarities but I am now happy to do so. I ask members of the select sub-committee for their support in this regard.

Deputy Timmy Dooley: It is right to bring forward this amendment. There was some considerable concern about the impact the legislation would have had on community groups referred to by the Minister of State. We will therefore certainly be supporting this amendment.

Vice Chairman: I wish to add my support to the amendment also. I have raised the matter with the Minister of State's office and I welcome the exemption. Charitable services need to be supported as much as possible. This amendment will allow them to function without any undue burden. I thank the Minister of State for having heeded the various representations.

Amendment agreed to.

Vice Chairman: Amendment No. 84 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 84:

In page 53, before section 48, but in Part 6, to insert the following new section:

49.—(1) Where a community transport service is granted an exemption, the service may be provided by the holder of the exemption with approved vehicles driven by approved volunteer drivers.

(2) An approved vehicle which is used in the provision of an approved community transport service and which is being driven by an approved volunteer driver is exempt from the requirement under licensing regulations for the vehicle to be licensed.

(3) An approved volunteer driver who drives an approved vehicle in the provision of an approved community transport service is exempt from the requirement under licensing regulations to hold a licence to drive a small public service vehicle under licensing regulations and, accordingly, the requirements of *section 21(1)* do not apply to the driver in these circumstances.”.

Amendment agreed to.

Vice Chairman: Amendment No. 85 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 85:

In page 53, before section 48, but in Part 6, to insert the following new section:

50.—(1) The Authority may grant an exemption from the requirement of licensing regulations to a person proposing to operate a community transport service.

(2) In order to be granted an exemption from the requirements of licensing regulations, the person proposing to operate a community transport service shall submit in writing to the Authority an application for such stating—

(a) the name of the proposed community transport service, that it is a charity and its purpose,

(b) that the operator of the proposed service has been granted charitable tax exemption, and giving details of the tax exemption,

(c) if charges in respect of the cost of operating the service are to be made of persons availing of the service, the nature and proposed level of those charges,

(d) the name and address of the person who proposes to operate the service,

(e) the name and address of any volunteer driver proposed to drive a vehicle in respect of the service, and

(f) the unique identification mark (registration number) of any mechanically propelled vehicle to be used in the provision of the service.

(3) The application shall be accompanied by evidence that—

(a) any vehicle to be used in the course of operation of the proposed service—

(i) is covered by an approved policy of insurance (within the meaning of section 62 of the Act of 1961) in respect of any person being carried in it during the course of its operation, and

(ii) has a test certificate issued under section 18 of the Act of 1961 in force in respect of the vehicle, if such a certificate is required in respect of the vehicle, and

(b) any volunteer driver connected with the proposed service holds a driving licence (within the meaning of the Act of 1961) and is covered by a policy of insurance in respect of driving an approved vehicle.

(4) The Authority in considering an application for an exemption submitted under *subsection (2)*—

(a) shall have regard to any charitable tax exemption given to the proposed community transport service and the needs of the community in relation to the community transport service being proposed and, in particular, the needs of rural communities without adequate transport services, and

(b) may require in this regard such further details as it considers necessary to make its decision.

(5) In granting an application for an exemption, the Authority may approve such vehicles and volunteer drivers mentioned in the application as it sees fit.

(6) The Authority shall inform the applicant by notice of the decision.

(7) An exemption may be for a specified period.

(8) An exemption under this section shall be subject to any terms and conditions attached to it.

(9) An exemption—

(a) shall not be granted to an applicant who is not a charity and does not have a charitable tax exemption in respect of the community transport service concerned, and

(b) stands withdrawn, if a charitable tax exemption in respect of the operator of the community transport service is withdrawn by the Revenue Commissioners or the operator ceases to be a charity.

(10) The holder of an exemption shall inform the Authority in writing of any change of address of the holder.”.

Amendment agreed to.

Vice Chairman: Amendment No. 86 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 86:

In page 53, before section 48, but in Part 6, to insert the following new section:

51.—An approved community transport service provider shall keep and maintain records of bookings, payments from passengers and payments to approved volunteer drivers. These records shall be made available to the Authority upon request in writing by the Authority, not later than 21 days after the date the request being made.”.

Amendment agreed to.

Vice Chairman: Amendment No. 87 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 87:

In page 53, before section 48, but in Part 6, to insert the following new section:

52.—Where the holder of an exemption proposes to use vehicles or use the services of volunteer drivers other than those who are approved in the application for the exemption, the holder shall submit to the Authority for approval details of such vehicles or drivers to the Authority.”.

Amendment agreed to.

Vice Chairman: Amendment No. 88 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 88:

In page 53, before section 48, but in Part 6, to insert the following new section:

“CHAPTER 2

Other exemptions from licensing regulations

53.—(1) The Authority may make regulations specifying categories or classes of

vehicles or drivers or services to be exempted from the requirement under licensing regulations to hold a licence in respect of such vehicle, driver or service.

(2) Regulations made under this section may only specify a category or class of vehicle, driver or service for exemption from licensing regulations where—

(a) in the case of a service, the service is provided without gain for the provider and any payment for a journey, in respect of passengers using the service, does not exceed the cost of providing the service in respect of the journey,

(b) in the case of a driver, the driver—

(i) receives no reward for his or her services, other than payment to him or her of an amount not exceeding the reasonable expenses or costs incurred by him or her in driving the vehicle or making himself or herself available to provide the service, or

(ii) is operating a vehicle under a contract of employment where the operation of such vehicle is solely for the carriage of the person who has ownership or possession of the vehicle or the carriage, at the request of the person, of others without any gain to the person,

and

(c) in the case of a vehicle, that the vehicle—

(i) is not being driven or used in the course of carrying on a business,

(ii) is not being driven or used for the purpose of obtaining reward from its use, or

(iii) is driven or used solely for the carriage of the person who has ownership or possession of the vehicle or the carriage, at the request of the person, of others without any gain to the person.

(3) In making regulations under this section, the Authority may establish the requirements relating to the application for or holding an exemption, including—

(a) notification to it of any services, vehicles or drivers the subject of the exemption,

(b) the provision of information and records related to the exemption or application for it, and

(c) the requirements in relation to tax matters, test certificates (within the meaning of section 18 of the Act of 1961) and approved policies of insurance (within the meaning of section 62 of the Act of 1961) in relation to the service, vehicle or driver, the subject of the exemption.

(4) The Authority may attach terms and conditions to an exemption under regulations under this section.

(5) Regulations under this section may provide that an exemption under the regulations applies generally under the regulations or upon application to it for the exemption.

(6) The requirements of *section 21(1)* do not apply to a person who is driving or using a vehicle for the carriage of persons for reward while driving or using the vehicle in compliance with an exemption under regulations under this section.”.

Amendment agreed to.

Vice Chairman: Amendment No. 89 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 89:

In page 53, before section 48, but in Part 6, to insert the following new section:

“CHAPTER 3

Administrative

54.—(1) Where the Authority proposes to refuse an exemption it shall by notice inform the applicant of the proposal and afford the applicant an opportunity to make representations, not later than 14 days of being informed by notice, to the Authority. The Authority shall consider any such representations.

(2) Where an applicant is not granted an exemption, the applicant may appeal the decision, not later than 14 days from the service of the notice, to the judge of the District Court within whose district it is proposed to operate the service.

(3) The judge hearing the appeal under *subsection (2)* may confirm the decision or allow the appeal (with or without modification).

(4) Where an approved community transport service is operated other than in accordance with *Chapter 1* or the terms and conditions of an exemption under *section 50* or another service is operated other than in accordance with the requirements of regulations, or the terms or conditions attached to an exemption under regulations, made under *section 53*, the Authority may by notice withdraw the exemption or suspend it until the Authority is satisfied that it will be operated in accordance with *Chapter 1*, regulations under *section 53* or its terms or conditions, as the case may be.

(5) The Authority before withdrawing or suspending an exemption, shall afford the holder of the exemption an opportunity to make representations, not later than 14 days from being informed by notice of the proposal, to the Authority or to take such remedial action as specified in the notice (if any).

(6) Where an exemption is withdrawn or suspended under *subsection (4)*, the holder may appeal the decision to the judge of the District Court within whose district the holder operates the service. The Court may confirm the decision or allow the appeal (with or without modification).

(7) The decision of the District Court on an appeal under *subsection (2)* or *(6)* is final, save by leave of the Court an appeal on a specified point of law lies to the High Court.

(8) Where a person makes an appeal under this section, he or she shall at the same time notify in writing the Authority of the appeal.

(9) In this section “exemption” means an exemption granted under *section 51* or regulations made under *section 53*.”.

Amendment agreed to.

Vice Chairman: Amendment No. 90 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 90:

In page 53, before section 48, but in Part 6, to insert the following new section:

55.—(1) The Authority may make regulations in relation to—

(a) the regulation of the operation of a vehicle in providing a service under an exemption under this Part, including the operation of the vehicle by its driver, to provide for any or all of the following:

- (i) the maximum number of passengers permitted to be carried in the vehicle;
- (ii) restricting or prohibiting the use of the vehicle if it is not in a satisfactory condition;
- (iii) restricting the periods of time within which the vehicle may be operated in providing the service;
- (iv) the area of operation of the vehicle in providing a service;
- (v) the reimbursement of expenses of drivers and operators of the vehicle;
- (vi) matters relating to any charges for carriage of persons in the vehicle;
- (vii) the issuing of receipts for journeys undertaken with the vehicle in providing the service;
- (viii) the keeping of records in respect of the operation of the service,

and

(b) the vehicle standards to be complied with regarding the road worthiness and suitability of a vehicle with which to provide a service under an exemption under this Part.

(2) Compliance with regulations made under this section is a term of an exemption under this Part.”.

Amendment agreed to.

Vice Chairman: Amendment No. 91 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 91:

In page 53, before section 48, but in Part 6, to insert the following new section:

56.—(1) An application for an exemption under this Part or the approval of any vehicle or volunteer driver under *Chapter 1** shall be accompanied by such fee (if any) as the Authority determines to cover administrative expenses incurred in an application.

(2) The Authority shall publish details of any fees so determined within this section.”.

Amendment agreed to.

Vice Chairman: Amendment No. 92 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 92:

In page 53, before section 48, but in Part 6, to insert the following new section:

57.—(1) An authorised person, for the purposes of ensuring the holder of an exemption is operating a community transport service in accordance with an exemption under *Chapter 1** or another service in accordance with regulations under *section 53*** or who suspects a person is operating a service or a vehicle without an exemption, may—

(a) subject to *subsection (2)*, at any reasonable time, enter the premises or place where any activity connected with a service relating to the exemption is being carried on and search the premises or place, examine any vehicle and inspect any records or documents found there,

(b) require a person in charge of the premises or place, or a vehicle on the premises or place, or the driver of the vehicle, to produce to him or her any record or documents (and in the case of such record or document stored in non-legible form, produce to him or her a copy in legible form) relating to the provision of such services which are in the person's power and control and to give the authorised person such information as he or she may reasonably require for the purpose of enforcing this Part,

(c) inspect and take extracts from or make copies of such records or documents (including in the case of information in a non-legible form, an extract from or copy of such information in permanent legible form), or

(d) remove and retain such records or documents for a reasonable period for future inspection.

(2) An authorised person shall not enter, except with the consent of the occupier, a private dwelling for the purposes of this section.”.

Amendment agreed to.

Vice Chairman: Amendment No. 93 has already been discussed with amendment No. 83.

Deputy Alan Kelly: I move amendment No. 93:

In page 53, before section 48, but in Part 6, to insert the following new section:

58.—(1) The Authority shall establish and maintain a register of exemptions (in this section referred to as the “register”) under this Part.

(2) The register may be maintained in a form that is not legible if it is capable of being converted into legible form.

(3) The register shall contain the following information in relation to each exemption:

(a) if the exemption is granted to a particular person, the name and address of the

holder of the exemption (including any change of address);

(b) the details of the exemption;

(c) the details of any withdrawal or suspension of the exemption.

(4) Information contained in the register shall, subject to a determination by the Authority in consultation with the Garda Commissioner that certain information relating to a person referred to in the register should remain confidential, be available for inspection at all reasonable times, upon payment of such fee, if any, as the Authority decides.”.

Amendment agreed to.

Sections 48 to 50, inclusive, agreed to.

SECTION 51

Deputy Dessie Ellis: I move amendment No. 94:

In page 55, subsection (2), line 13, after “2009.” to insert the following:

“Any excess income after expenses will where possible be used by way of grant schemes to offset a portion of the cost to licence holders in meeting standards in relation to branding and vehicle

This amendment concerns the excess fees raised by the authority. Could they be used to offset the costs of licence-holders, under standards and regulations, through grant schemes?

Deputy Alan Kelly: I understand the Deputy’s point but I will not be accepting the amendment. The NTA is funded by the Exchequer by way of an administration grant and from revenue received from fees generated from the SPSV licensing activity. Under section 54 of the Taxi Regulation Act 2003, as amended by the Public Transport Regulation Act 2009, income generated from fees that is surplus to the income necessary to meet the demands of taxi regulation shall be applied for the purpose of meeting expenses properly incurred by the authority. The current policy in this regard is adequately provided for in this legislation or in current legislation as amended, and I have no plans to change it. However, it was always my complete intention that in any changes we make across the regulation of the industry, the costs to taxi drivers are kept to an absolute minimum. As regards future changes, which are not part of this Bill or the regulations as currently constituted, I will always examine ways in which we can ensure that as little cost as possible is borne by the drivers themselves.

Deputy Dessie Ellis: I would like to press this amendment because there have been a lot of extra costs for taxi drivers generally, whether through signage, portals or otherwise. They are being penalised a lot, so I wish to press the amendment.

Amendment put and declared lost.

Section 51 agreed to.

Sections 52 to 57, inclusive, agreed to.

SECTION 58

Vice Chairman: Amendments Nos. 95 to 97, inclusive, are related and may be discussed

together.

Deputy Dessie Ellis: I move amendment No. 95:

In page 57, subsection (4)(a), lines 31 and 32, to delete “small public service vehicle and driver interests” and substitute “single licence holder drivers”.

Single licence holders are not properly represented on the advisory council, so a better mechanism is needed. They make up the bulk of licences, yet they are not being properly represented. On that basis, I would like to press this amendment.

Vice Chairman: Does the Minister of State wish to respond?

Deputy Alan Kelly: I will not be accepting these amendments. The representation of SPSV, small public service vehicles operators, on the taxi advisory committee already provides the flexibility for representation from single and multiple licenceholders. These amendments do not improve the current provision in the Bill, which is a restatement of the statute under the Taxi Regulation Act 2003.

Under amendment No. 96, it is not clear how the proposed system of furnishing evidence concerning representation would work or how this could be verified. It is impractical and not appropriate as an inclusion in the Bill.

I do not believe any Minister has met with the industry’s representatives as much as I have. I take on board the views of every representative group, of which there are many, made to me. The taxi advisory committee works well with the National Transport Authority. Their recommendations are well reflected in this legislation. I do not believe a change from the 2003 Act is necessary and that the flexibility is there.

Deputy Dessie Ellis: I do not agree with the Minister of State. The single licenceholders are not getting fair representation on the taxi advisory committee.

Deputy Timmy Dooley: Amendment No. 96 is about providing the same level of representation. Tiománaí Tacsáí na hÉireann believes it represents a large number of individual taxi drivers but has not been part of the consultation process to the extent it could have been. If the Minister of State could give some comfort to individual taxi drivers as to how their voices will be heard, then I will withdraw the amendment.

Deputy Alan Kelly: I will happily do that. I am involved in appointing the committee. The association to which Deputy Dooley referred has been included like every other grouping. Whether it took up that option is its own business. I will make sure there is adequate representation for full-time taxi drivers, dispatch services and multiple licenceholders. As I have said publicly on many occasions, my orientation is towards full-time taxi drivers. I need, however, to ensure there is a spread of other interests on the committee, such as the disability sector.

Deputy Timmy Dooley: Will the Minister of State consider submitting a draft list of appointments to the advisory committee to the transport committee prior to their confirmation?

Deputy Alan Kelly: I cannot accept that proposal. It is at my discretion to put forward the committee membership. I am happy for the taxi representative groups to appear before the advisory committee. That would be a useful exercise, one which happened on one occasion in the past. Having said that, I will take on board the views of the Deputies.

Amendment put and declared lost.

Amendment No. 96 not moved.

Deputy Dessie Ellis: I move amendment No. 97:

In page 57, subsection (4), between lines 32 and 33, to insert the following:

“(b) at least 1 person representing the interests of the multiple taxi licence holders,”.

There is a perception that multiple taxi licenceholders have a bigger say than the ordinary licenceholders.

Deputy Alan Kelly: That is completely untrue.

Vice Chairman: There will be no discussion on this amendment as it has already been discussed with amendment No. 95.

Amendment put and declared lost.

Deputy Dessie Ellis: I move amendment No. 98:

In page 58, between lines 4 and 5, to insert the following subsection:

“(5) The chairperson shall be required to attend a special meeting of the responsible Oireachtas Committee at least once every two years from the commencement of this section. All other members of the Advisory Committee shall also be available to attend these special meetings at the request of the Oireachtas Committee who shall set the agenda.”.

The advisory committee should report to the relevant Oireachtas committee at least every two years so we can get a feel of how it is progressing. It would be beneficial to the industry in general.

Deputy Alan Kelly: I have no problem with this principle but it should not be prescribed in law. It is not necessary to put such a request into legislation.

Deputy Dessie Ellis: Is the Minister of State supporting me now?

Deputy Alan Kelly: I am supporting the spirit of the amendment. I have no issue with the Oireachtas transport committee calling in the taxi advisory committee for discussions. It just does not need to be in law.

Amendment put and declared lost.

Section 58 agreed to.

SECTION 59

Deputy Alan Kelly: I move amendment No. 99:

In page 59, subsection (2)(a), to delete lines 25 to 29 and substitute the following:

“(iii) the preparation and review of the draft integrated implementation plan under section 13 of the Act of 2008 in relation to issues relevant to the small public service industry, and”.

This is a drafting amendment to remove a reference that is no longer relevant.

Amendment agreed to.

Section 59, as amended, agreed to.

SECTION 60

Vice Chairman: Amendments Nos. 100 to 101 are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 100:

In page 60, before section 60, but in Part 8, to insert the following new section:

“PART 9*

AMENDMENT OF ACT OF 2008

60.—The Act of 2008 is amended—

(a) in section 2—

(i) by inserting after the definition of “Act of 2005” the following:

“ ‘Act of 2009’ means Public Transport Regulation Act 2009; ‘ancillary public passenger transport service’ means passenger transport services of general economic interest provided to the public on a non-discriminatory and continuous basis that are not either a rail passenger service or a public bus service;”,

(ii) by substituting for the definition of “public passenger transport service” the following:

“ ‘public passenger transport service’ means—

(a) a rail passenger service,

(b) a public bus service, or

(c) an ancillary public passenger transport service;”,

and

(iii) by substituting for the definition of “public transport operator” the following:

“ ‘public transport operator’ means—

(a) Irish Rail, Bus Éireann, Dublin Bus or the RPA,

(b) a person providing public passenger transport services under a contract with the RPA,

(c) a person providing public passenger transport services under a contract with the Authority,

(d) a person operating a passenger road service in accordance with a passenger licence granted under the Road Transport Act 1932, or

(e) a person providing a public passenger bus service in accordance with a licence granted under the Act of 2009;”,

(b) in section 9, by substituting for subsection (2) the following:

“(2) The functional area of the Authority (other than to the extent provided by this Act) is the State.”,

(c) in section 48—

(i) in subsection (2)(a), by inserting “(other than metro or light rail passenger services)” after “services”, and

(ii) in subsection (2)(b), by inserting “and ancillary public passenger transport services” after “services”,

and

(d) in section 52—

(i) by substituting for subsection (1), the following:

“(1) Save where—

(a) a licence is granted by the Minister under the Road Transport Act 1932,

(b) a licence is granted by the Authority under Part 2 of the Act of 2009,

(c) the Authority has entered into a public transport service contract with a public transport operator, or

(d) otherwise provided by law—

(i) Dublin Bus has an exclusive right to continue to provide the public bus services that it provides in accordance with the provisions of section 7 of the Act of 1958 and

section 8 of the Act of 1986 within the city of Dublin and the counties of Fingal, South Dublin and Dún Laoghaire-Rathdown and contiguous areas, and

(ii) Bus Éireann has an exclusive right to continue to provide the public bus services that it provides in accordance with section 7 of the Act of 1958 and section 8 of the Act of 1986 except in so far as such services are provided by Dublin Bus under subparagraph (i),

and those services shall be set out in the public service contracts entered into under subsection (3)(a).”,

(ii) by substituting for subsections (3) and (4) the following:

“(3) The Authority, in accordance with section 48, to ensure the adequacy of public passenger transport services in the general economic interest—

(a) shall enter into direct award contracts, which impose public service obligations with—

(i) Dublin Bus and Bus Éireann to secure the provision of public bus services to which subsection (1) relates, and

(ii) Irish Rail to secure the provision of rail passenger services to which subsection (2) relates,

And

(b) may enter into direct award contracts, in accordance with Regulation No. 1370/2007, which impose public service obligations, with public transport operators to secure the provision of public passenger transport services not being provided by Dublin Bus, Bus Éireann or Irish Rail pursuant to the direct award contracts entered into pursuant to subparagraph (a)(i) or (ii).

(4) Notwithstanding section 48(6)—

(a) the direct award contracts referred to in subparagraph (a)(i) of subsection (3) shall each be for a period of 5 years,

(b) the contract referred to in subparagraph (a)(ii) of subsection (3) shall be for a period of 10 years, and

(c) the contracts referred to in paragraph (b) of subsection (3) shall be for a period not to exceed 5 years.”,

(iii) in subsection (6)(b), by inserting “or ancillary public passenger transport services” after “services”, and

(iv) in subsection (6)(c)(ii), by inserting “(i)” after “(3)(a)”.”.

This amendment provides for the National Transport Authority, NTA, to grant a public service contract for the provision of public transport services by direct award to transport operators other than the State transport companies. This is with a view to the granting of such contracts by way of direct award for the provision of transport services currently under the rural transport programme.

Specifically the proposed new Part amends the Dublin Transport Authority Act 2008 to extend the definition of public passenger transport service to include ancillary transport services such as passenger transport services of general economic interest provided to the public on a non-discriminatory and continuous basis that are not either a rail passenger service or a public bus service, and for a public transport operator to include a person providing public passenger bus services in accordance with a licence under the Public Transport Act 2009.

The amendments to sections 48 and 52 of the Dublin Transport Authority Act 2008 relate to the direct award of contracts for public transport services to include transport services other than those already provided for by the State bus and rail companies in accordance with EU Regulation No. 1370/2007.

The amendments to section 9, section 45, for the purposes of funding public transport infrastructure, and sections 57, 62, 66 and 73 in the Dublin Transport Authority Act 2008, extend the scope of the NTA function to the State except where specified under the Act to be within the greater Dublin area only.

A new section 44A is inserted to the Dublin Transport Authority Act 2008 to allow the authority to invest in bus infrastructure and cycling facilities in the State, and to engage in concessions, joint ventures or public private partnerships for this purpose. This is to facilitate any

new bus routes that may be provided under direct award public service contract, for example, for rural transport programme services, as well as to facilitate other transport provision such as cycling facilities.

Deputy Dessie Ellis: Will the Minister of State clarify some points on the direct award of contracts? It does not seem to go with the principle for open tendering.

Deputy Alan Kelly: Essentially, this is just to regularise some anomalies. Every member knows I have made significant and progressive changes to the provision of rural transport. I want to ensure a greater joining up of transport services across the country in order to deliver better services. I have received a lot of support from all parties and some good suggestions. In order to deliver better services, we need to remove some anomalies, particularly the direct awarding of contracts to some of the operators who currently provide services under the rural transport programme. The provision will regularise the position.

Vice Chairman: I wish to comment on the issue of rural transport. Reform of the programme was necessary. There are some examples of excellent rural transport services, but there are also some bad examples. It is timely to conduct a review of rural transport services and have collaboration between the various services involved in order to provide a better and more efficient service that will meet the needs of rural people. I welcome the initiative in that regard.

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 101:

In page 60, before section 60, but in Part 8, to insert the following new section:

61.—Part 3 of the Act of 2008 is amended by—

(a) by inserting after section 44 the following:

44A.—(1) The Authority shall have the function to secure or provide public transport, and cycling, infrastructure in the State in relation to—

(a) bus stops, bus shelters, bus stations, stands and bus fleets, and

(b) cycling facilities and schemes to promote cycling.

(2) For the purposes of achieving its function under this section, the Authority may enter into agreements with other persons including by means of a concession, joint venture or public private partnership.”,

(b) in section 45—

(i) in subsection (1), by substituting “section 44 or 44A” for “section 44”,

and

(ii) in subsection (2), by substituting “Minister for Public Expenditure and Reform” for “Minister for Finance”,

(c) in sections 57, 62(1) and 73(1), by deleting “in the GDA” in each place it occurs, and

(d) in section 66(1), by inserting—

- (i) “for the GDA” after “traffic management plan”, and
- (ii) “in the State” after “for the purposes of traffic management”.”.

Amendment agreed to.

Sections 60 and 61 agreed to.

NEW SECTION

Vice Chairman: Amendments Nos. 102 and 103 are related and may be discussed together.

Deputy Alan Kelly: I move amendment No. 102:

In page 62, before the Schedule, to insert the following new section:

“PART 10

AMENDMENT OF SECTION 2 OF METROLOGY ACT 1996

62.—Section 2(1) of the Metrology Act 1996 is amended—

(a) by inserting after the definition of “stamp” the following:

“ ‘taximeter system’ means a taximeter and distance signal generator which together make up a measuring instrument;”,

and

(b) by substituting for the definition of “user” the following:

“ ‘user’ means—

(a) the person or organisation responsible for the use of the instrument for the purposes of this Act,

(b) in the case of a taximeter system, includes in addition to any such user—

(i) the holder of a licence in respect of a small public service vehicle granted under *section 9* of the *Taxi Regulation Act 2013* in respect of which a taximeter system is installed, and

(ii) the holder of a licence to drive a small public service vehicle granted under *section 9* of the *Taxi Regulation Act 2013* in respect of a small public service vehicle in which a taximeter system is installed,

and

(c) the person driving or using a mechanically propelled vehicle in which a taximeter system is installed, in a public place for the carriage of persons for reward, whether or not that person is the holder of a licence mentioned in paragraph (b);”.”.

The amendment extends the definition of “user” under section 2 of the Metrology Act 1996 to include the holder of an SPSV licence to drive, or in respect of a vehicle to which a taxi

MESSAGE TO DÁIL

meter is installed, or the unlicensed operation of a mechanically propelled vehicle in which a taxi meter system is installed, in a public place for the carriage of persons for reward. The amendment will ensure greater accountability by operators of taxis with regard to contravention of the rules applying to taxi meters under the Metrology Act 1996 and the responsibilities to ensure the taxi meter is verified in accordance with the requirement under section 14 of the Act. The amendment was sought after and is necessary in order to help clean up the industry and provide for greater accountability.

Amendment No. 103 is a technical amendment to make reference in the Long Title of the Bill to the proposed amendments to section 2 of the Metrology Act 1996 and the Dublin Transport Authority Act 2008.

Amendment agreed to.

Schedule agreed to.

TITLE

Deputy Alan Kelly: I move amendment No. 103:

In page 7, line 14, after “AMEND” to insert the following:

“SECTION 2 OF THE METROLOGY ACT 1996, THE DUBLIN TRANSPORT AUTHORITY ACT 2008 AND”.—

Amendment agreed to.

Title, as amended, agreed to.

Vice Chairman: I thank the Minister of State and his officials for attending and members of the committee for their consideration of the Bill.

Bill reported with amendments.

Message to Dáil

Vice Chairman: In accordance with Standing Order 87, the following message will be sent to the Dáil:

The Select sub-Committee on Transport, Tourism and Sport has completed its consideration of the Taxi Regulation Bill 2012 and has made amendments thereto.

The select sub-committee adjourned at 11.35 a.m. *sine die*.