



Number 44 of 2004

ROAD TRAFFIC ACT 2004

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, commencement, collective citation and construction.
2. Interpretation.
3. Regulations.

PART 2

SPEED LIMITS.

4. Ordinary speed limits.
5. Built-up area speed limit.
6. Non-urban regional and local roads speed limit.
7. National roads speed limit.
8. Motorway speed limit.
9. Special speed limits.
10. Speed limits at road works.
11. Offence of exceeding speed limit.
12. Transitional provisions — speed limits.
13. Amendment of section 53 of Principal Act (dangerous driving).
14. Repeals (*Part 2*).

[No. 44.] *Road Traffic Act 2004.* [2004.]

Section

15. Evidence in relation to certain offences under Act of 2002.

PART 3

FIXED CHARGES, PENALTY POINTS AND OUTSOURCING.

16. Amendments of section 2 of Act of 2002 (endorsement of penalty points).
17. Amendment of section 7 of Act of 2002 (appeal against conviction for penalty points).
18. Outsourcing of fixed charge functions from Garda Síochána.
19. Driver of vehicle where registered owner is not an individual.
20. Offence by body corporate, etc.
21. Inspection of driving licences of persons charged with certain offences.
22. Amendment of First Schedule to Act of 2002.
23. Amendment of section 3 of Act of 1975 (Traffic Wardens).

PART 4

MISCELLANEOUS.

24. Courts Service to inform Minister of court orders under section 36 and 29 of Principal Act.
25. Amendment of section 9 of Act of 2002 (disqualification pursuant to European Convention on Driving Disqualifications).
26. Permits.
27. Exemptions for emergency vehicles.
28. Functions of Commissioner of Garda Síochána.
29. Amendment of section 84 of Principal Act (bye-laws in relation to taxi stands).
30. Supply of mechanically propelled vehicles to minor.
31. Power of road authority to provide and maintain certain equipment, etc., on public roads.
32. “registered” owner.
33. Production of driving licence to member of Garda Síochána subsequent to commission of road traffic offence.

PART 5

INSURANCE.

34. Obligation to be insured.
35. Amendment to Table to section 23 of Act of 2002.

[2004.] *Road Traffic Act 2004.* [No. 44.]

PART 6

AMENDMENT OF TAXI REGULATION ACT 2003

Section

36. Amendment of section 36 of Taxi Regulation Act 2003
(mandatory disqualification).

ACTS REFERRED TO

Finance Act 1976	1976, No. 3
Finance Act 1992	1992, No. 9
Finance (No. 2) Act 1992	1992, No. 28
Finance Act 1993	1993, No. 4
Finance Act 1994	1994, No. 27
Local Authorities (Traffic Wardens) Act 1975	1975, No. 14
Local Government Act 2001	2001, No. 37
Road Traffic Act 1961	1961, No. 24
Road Traffic Act 1968	1968, No. 25
Road Traffic Act 1994	1994, No. 7
Road Traffic Act 2002	2002, No. 12
Road Traffic Acts 1961 to 2003	
Roads Act 1993	1993, No. 14
Taxi Regulation Act 2003	2003, No. 25



Number 44 of 2004

ROAD TRAFFIC ACT 2004

AN ACT TO AMEND AND EXTEND THE ROAD TRAFFIC ACTS 1961 TO 2003, THE LOCAL AUTHORITIES (TRAFFIC WARDENS) ACT 1975 AND THE TAXI REGULATION ACT 2003. [22nd December, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Road Traffic Act 2004.

Short title,
commencement,
collective citation
and construction.

(2) This Act (other than *section 36*) comes into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.

(3) The Road Traffic Acts 1961 to 2003 and this Act (other than *Part 6*) may be cited together as the Road Traffic Acts 1961 to 2004 and shall be construed together as one Act.

2.—(1) In this Act—

Interpretation.

“Act of 1968” means Road Traffic Act 1968;

“Act of 1975” means Local Authorities (Traffic Wardens) Act 1975;

“Act of 1994” means Road Traffic Act 1994;

“Act of 2001” means Local Government Act 2001;

“Act of 2002” means Road Traffic Act 2002;

“administrative area” has the meaning assigned to it by the Act of 2001;

“built up area” means the area of a city, a borough or a town within the meaning of the Local Government Act 2001;

“Commissioner” means Commissioner of the Garda Síochána;

“county council” and “city council” have the meanings assigned to them, respectively, in the Act of 2001;

[No. 44.] *Road Traffic Act 2004.* [2004.]

Pt.1 S.2

“local road”, “regional road”, “national road” and “motorway” have the meaning assigned to them, respectively, in the Roads Act 1993;

“Minister” means Minister for Transport;

“Principal Act” means Road Traffic Act 1961.

(2) In this Act—

- (a) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and
- (c) a reference to any enactment is to be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

Regulations.

3.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed.

(2) Regulations made under this Act shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling the regulations is passed by either such House within the next 21 days on which that House has sat after the regulations are laid before it, the regulations shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

PART 2

SPEED LIMITS

Ordinary speed limits.

4.—(1) The Minister may make regulations prescribing a speed limit (“ordinary speed limit”) in respect of all public roads, or all public roads with such exceptions as may be specified in the regulations, for any class of mechanically propelled vehicle.

(2) Regulations under this section may prescribe different speed limits for any class of vehicle using particular categories of public roads.

(3) Regulations under this section may make provision for the exemption of a class or classes, including a sub class, of vehicles from a speed limit specified in any such regulations.

Built-up area speed limit.

5.—(1) There is a speed limit (“built-up area speed limit”) of 50 kilometres per hour in respect of all public roads, other than a motorway in built-up areas for all mechanically propelled vehicles.

(2) The built-up area speed limit does not apply to a road or part of it in a built-up area where a special speed limit or a road works speed limit applies to that road or part.

6.—(1) There is a speed limit (“regional and local roads speed limit”) of 80 kilometres per hour in respect of all regional and local roads, other than such roads in built-up areas, for all mechanically propelled vehicles. Pt.2
Non-urban regional
and local roads
speed limit.

(2) The regional and local roads speed limit does not apply to a non-urban regional and local road or part of it where a special speed limit or a road works speed limit applies to that road or part.

7.—(1) There is a speed limit (“national roads speed limit”) of 100 kilometres per hour in respect of all national roads, other than national roads in built-up areas, for all mechanically propelled vehicles. National roads
speed limit.

(2) The national roads speed limit does not apply to a national road or part of it where a special speed limit or a road works speed limit applies to that road or part.

8.—(1) There is a speed limit (“motorway speed limit”) of 120 kilometres per hour in respect of all motorways for all mechanically propelled vehicles. Motorway speed
limit.

(2) The motorway speed limit does not apply in respect of any motorway or part of it where a special speed limit or road works speed limit applies to that motorway or part.

9.—(1) A county council or a city council may make bye-laws (“special speed limit bye-laws”) specifying in respect of any specified public road or specified part of a public road or specified carriageway or lane of a public road within its administrative area the speed limit (“special speed limit”) which shall be the speed limit on that road or those roads for mechanically propelled vehicles. Special speed limits.

(2) The special speed limits that may be specified in bye-laws under this section are—

- (a) 30 kilometres per hour, which shall only be applied in respect of a road or roads (other than a motorway) in accordance with guidelines issued by the Minister under this section,
- (b) 50 kilometres per hour, in respect of any road other than a road in a built-up area,
- (c) 60 kilometres per hour,
- (d) 80 kilometres per hour, in respect of a motorway, a national road or a road in a built-up area,
- (e) 100 kilometres per hour, in respect of a motorway, a non-urban regional or local road or a road in a built-up area, and
- (f) 120 kilometres per hour, in respect of a dual carriageway that forms part of a national road that is not a motorway in accordance with guidelines issued by the Minister under *subsection (9)*.

(3) Before making special speed limit bye-laws a county council or city council shall give notice to—

- (a) the council of any borough or town in the administrative county concerned of any provision in the proposed bye-laws relating to roads in their respective administrative areas, and
- (b) the Commissioner, and

shall consider any representations made in writing by any such council or the Commissioner where they are received within the period (not being less than one month after the date of service of the notice) specified in the notice.

(4) Whenever a county council or city council having considered any representations under *subsection (3)*, proposes to make bye-laws under this section, the following provisions have effect—

- (a) the council shall publish notice of the proposal at least once in at least 2 daily newspapers published in and circulating in the State or the area to which the bye-laws relate,
- (b) the notice shall include—
 - (i) a statement of the purpose for which the bye-laws are to be made,
 - (ii) an intimation that a copy of draft bye-laws is open for public inspection at the address stated in the notice, and
 - (iii) an intimation that any person may submit to the council objections to the draft bye-laws at any time during the period of 30 days commencing on the date of the first publication of the notice,
- (c) the council shall, during that period of 30 days, keep a copy of the draft bye-laws open for public inspection during ordinary office hours at the address stated in the notice,
- (d) any person who objects to the draft bye-laws may submit his or her objection to the council in writing at any time during that period of 30 days and the council shall consider the objections.

(5) In making special speed limit bye-laws under this section a county council or city council may, in the interests of road safety, apply a special speed limit for a specified period or periods during any day or during specified days (such periods and days being indicated in such bye-laws) on a specified road or specified motorway or part of it and such special speed limit shall, notwithstanding any other provision in the said bye-laws relating to any such road or motorway or part of it, be the speed limit for that road for that period or periods only.

(6) Having regard to circumstances that are particular to a specified national road or motorway or any specified part, carriageway or lane of a specified motorway or national road, a county council or city council may, subject to *subsection (7)*, specify in special speed limit bye-laws that a special speed limit applies in respect of that national road or motorway or part, carriageway or lane of it, in lieu of the speed limit that normally applies to the national road or

[2004.]

Road Traffic Act 2004.

[No. 44.]

motorway, for any period where the circumstances prevail and are described in the bye-laws. Pt.2 S.9

(7) A county council or city council shall not make bye-laws under this section relating to a national road or a motorway without the prior written consent of the National Roads Authority.

(8) The Minister may make regulations in relation to all or any of the following matters:

- (a) the varying of the speed limits standing specified in *subsection (2)* and that subsection shall have effect in accordance with any such regulations for the time being in force; or
- (b) the exemption of a class or classes of mechanically propelled vehicles from a specified speed limit or from all of the speed limits specified or having effect under this section.

(9) The Minister may issue guidelines relating to the making of bye-laws under this section and may amend or cancel any such guidelines. Where any such guidelines are, for the time being in force, a county council or city council shall have regard to them when making any such bye-laws.

(10) The making of special speed limit bye-laws under this section and the making of representations under *subsection (3)(a)* are reserved functions (within the meaning of the Act of 2001).

(11) Where special speed limit bye-laws apply a special speed limit to a specified public road or specified part of a public road or specified carriageway or lane of a public road, that speed limit does not apply where a road works speed limit order is made in respect of the public road, part, carriageway or lane of it.

(12) A document which purports to be a copy of special speed limit bye-laws, and which has endorsed on it a certificate purporting to be signed by an officer of the county council or city council which made the bye-laws stating that the document is a true copy of the bye-laws and that the bye-laws were in force on a specified day, shall, without proof of the signature of such officer or that he or she was in fact such officer, be evidence, until the contrary is shown, in every court and in all legal proceedings, of the bye-laws and of the fact that they were in force on that date.

10.—(1) The manager of a county or a city council may, where he or she considers it is in the interests of road safety, on a road or motorway or part of a road or motorway where road works are being carried out in the administrative area of the county or city council for which he or she is the manager, by order (“road works speed limit order”) apply to the road or motorway or part of it a special limit (“road works speed limit”) being a speed limit of not less than 30 kilometres per hour, as the speed limit on the road or motorway for mechanically propelled vehicles, in lieu of the speed limit provided or having effect under this Act in respect of the road or motorway or part of it. Speed limits at road works.

(2) A road works speed limit order is in force for the duration of the road works, subject to no such order having effect for a period of more than 12 months from the date of its making.

Pt.2 S.10

(3) A road works speed limit order shall not be made in respect of a national road or a motorway, without the prior written consent of the National Roads Authority.

(4) Before making a road works speed limit order the manager concerned shall notify the Commissioner in writing of his or her intention to make the order.

(5) The manager shall consider any representations made in writing by the Commissioner received by the manager within one month of the notification.

(6) When a road works speed limit order is made the manager concerned shall publish a notice in one or more newspapers circulating in the county or city council to which the order relates indicating the location where the order will have effect, the period for which it will have effect and the speed limit being applied through the order. The manager shall have regard to any representations that are made to him or her in relation to the road works speed limit order.

(7) A manager may at any time within the period specified in *subsection (2)* revoke or amend a road works speed limit order made by him or her.

(8) A document which purports to be a copy of a road works speed limit order which has endorsed on it a certificate purporting to be signed by the manager making the order or an officer of the local authority concerned designated by the manager stating that the document is a true copy of the order and that the order was in force on a specified day, shall, without proof of the signature of such manager or officer or that he or she was in fact such manager or officer, be evidence, until the contrary is shown, in every court and in all legal proceedings, of the order and of the fact that it was in force on that date.

Offence of exceeding speed limit.

11.—The following section is substituted for section 47 of the Principal Act:

“47.—(1) A person shall not drive a mechanically propelled vehicle at a speed exceeding the speed limit—

- (a) that applies in respect of that vehicle, or
- (b) that applies to the road on which the vehicle is being driven where that speed limit is lower than that applying to that vehicle.

(2) A person who contravenes subsection (1) is guilty of an offence.

(3) In this section “speed limit” means a limit which is—

- (a) an ordinary speed limit,
- (b) the built-up area speed limit,
- (c) the regional and local roads speed limit,
- (d) the national roads speed limit,
- (e) the motorway speed limit,

[2004.] *Road Traffic Act 2004.* [No. 44.]

(f) a special speed limit, or

Pt.2 S.11

(g) a road works speed limit.”.

12.—(1) On the commencement of *section 9*, bye-laws made under *section 46* (inserted by *section 33* of the Act of 1994) of the Principal Act continue in force and are deemed to be bye-laws for the purposes of that *section 9* and are to be read as applying—

Transitional provisions — speed limits.

(a) a speed limit of 50 kilometres per hour, in lieu of the built-up area speed limit of 30 miles per hour,

(b) a speed limit of 60 kilometres per hour, in lieu of the special speed limit of 40 miles per hour, and

(c) a speed limit of 80 kilometres per hour, in lieu of the special speed limit of 50 miles per hour,

and have effect in any county or city to which they apply until such time as bye-laws are made in respect of such county or city under that section.

(2) Subject to *subsection (3)*, traffic signs provided for in regulations made under *section 95* (as amended by *section 37* of the Act of 1994) of the Principal Act depicting the speed limits referred to in *subsection (1)* as applying in lieu of the former speed limits applying prior to the commencement of *section 9*, shall be provided as soon as may be after that date at the locations where the said former speed limits applied as provided for in bye-laws made under *section 46* (inserted by *section 33* of the Act of 1994) of the Principal Act.

(3) A traffic sign provided for the purpose of indicating a speed limit applying prior to the commencement of *section 9* shall on or after that day be regarded as indicating the new speed limit applying in lieu of the former speed limit until a traffic sign is provided for in accordance with *subsection (2)*.

13.—Section 53 of the Principal Act is amended by substituting for *subsection (3)* the following subsection:

Amendment of section 53 of Principal Act (dangerous driving).

“(3) In a prosecution for an offence under this section, it is not a defence to show that the speed at which the accused person was driving was not in excess of a speed limit applying in relation to the vehicle or the road, whichever is the lower under this Act.”.

14.—Sections 44, 44A (inserted by *section 24* of the Act of 1968), 44B (inserted by *section 31* of the Act of 1994), 45 (as amended by *section 32* of the Act of 1994) and 46 (inserted by *section 33* of the Act of 1994) of the Principal Act are repealed.

Repeals (*Part 2*).

15.—Section 21 of the Act of 2002 is amended—

Evidence in relation to certain offences under Act of 2002.

(a) by substituting for *subsection (1)* the following:

“(1) The onus of establishing *prima facie* proof of a constituent of an offence (including the speed at which a person, whether the accused or another person, was driving) under *section 47, 52, 53, 55, 91, 92, 93 or 94* of

[No. 44.] *Road Traffic Act 2004.* [2004.]

Pt.2 S.15

the Principal Act or section 35 of the Act of 1994 may be discharged by tendering evidence from which that constituent can be inferred of measurements or other indications which were given by—

- (a) electronic or other apparatus (including a camera) capable of providing a permanent record (including a permanent visual record) and are contained in such a record produced by it, or
- (b) electronic or other apparatus (including a radar gun) which is not capable of producing a permanent record.

It is not necessary to prove that the electronic or other apparatus was accurate or in good working order.”,

- (b) in subsection (2)(a), by substituting for subparagraph (i) the following:

“(i) purporting to be, or to be a copy of a record (which is not a visual record) referred to in subsection (1)(a) and to be signed by a member of the Garda Síochána, and”,

- (c) in subsection (3), by substituting for paragraph (a) the following:

“(a) in the case of apparatus referred to in subsection (1)(a), be capable of producing a record of the measurements or other indications referred to in subsection (1), and”,

and

- (d) by inserting after subsection (4) the following:

“(5) In proceedings for an offence referred to in subsection (1) it shall be presumed until the contrary is shown that—

- (a) the electronic or other apparatus used for the tendering of evidence was provided and maintained by a member of the Garda Síochána, and
- (b) that the development, production and viewing of records produced by such apparatus was carried out by a member of the Garda Síochána.

- (6) In this section—

‘radar gun’ means an apparatus which—

- (a) can be used to measure the speed of a moving object (such as a motor vehicle) by directing a signal from the apparatus at the object, and, if the signal is reflected off the object, the apparatus in turn receives the reflected signal, and
- (b) is capable of measuring the speed of the object and displaying the speed on the apparatus;

[2004.]

Road Traffic Act 2004.

[No. 44.]

‘record’ includes a visual record which can be stored permanently on the apparatus concerned.” Pt.2 S.15

PART 3

FIXED CHARGES, PENALTY POINTS AND OUTSOURCING

16.—Section 2 of the Act of 2002 is amended—

Amendments of section 2 of Act of 2002 (endorsement of penalty points).

(a) in subsection (5), by inserting “or a person appointed under section 103 of the Principal Act” after “Garda Síochána” and “Commissioner”, and

(b) in subsection (6), by substituting for paragraph (a) the following:

“(a) Where a person is convicted of a penalty point offence, the Minister shall be notified of the conviction by the Courts Service—

(i) in case an appeal is brought against the conviction and it is determined against the person, as soon as may be after such determination, and

(ii) in case an appeal is not brought against the conviction, as soon as may be after the expiration of the ordinary time for bringing such an appeal.”.

17.—Section 7 of the Act of 2002 is amended by substituting for subsection (4) the following:

Amendment of section 7 of Act of 2002 (appeal against conviction for penalty points).

“(4) Where an order is made under subsection (3), the Minister shall be notified by the Courts Service.”.

18.—(1) Section 103 (inserted by section 11 of the Act of 2002) of the Principal Act is amended—

Outsourcing of fixed charge functions from Garda Síochána.

(a) by substituting for subsection (1) the following:

“(1) This section applies to—

(a) such summary offences under the *Road Traffic Acts 1961 to 2004* and the *Roads Act 1993* as may be declared by the Minister by regulations, made after consultation with the Minister for Justice, Equality and Law Reform, to be fixed charge offences, and

(b) an offence under section 73 of the *Finance Act 1976*,

and an offence standing so declared under paragraph (a), and the offence referred to in paragraph (b), of this subsection are referred to in this section as a fixed charge offence.”,

(b) in subsection (4), by substituting for paragraph (b) the following:

“(b) the registered owner of the vehicle—

- (i) being an individual was not driving or otherwise using the vehicle, or
 - (ii) being a body corporate or an unincorporated body of persons was not capable of driving or otherwise using the vehicle,
- at the time of the commission of the alleged offence to which the notice relates,”

(c) by inserting after subsection (6) the following:

“(6A) A notice under this section in the prescribed form—

- (a) shall contain details of the manner of payment of a fixed charge, and
- (b) may specify the person to whom and the place where the payment is to be made and whether the payment is to be accompanied by the notice, duly completed.”

(d) in subsection (7) by substituting for paragraphs (b) and (c) the following:

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

(e) in subsection (8) by substituting for—

(i) paragraphs (b) and (c) the following:

- “(b) a person liable to be prosecuted for the offence may, during the period of 28 days beginning on the date of the notice, make a payment of a fixed charge of a prescribed amount,
- (c) if the person does not make the payment specified in paragraph (b) of this subsection during the period so specified the person may, during the period of 28 days beginning on the expiration of the period specified in that paragraph, make a payment of a fixed charge of an amount 50 per cent greater than the prescribed amount referred to in paragraph (b) of this section,”

and

[2004.]

Road Traffic Act 2004.

[No. 44.]

(ii) paragraph (h) the following:

Pt.3 S.18

“(h) subject to paragraph (f) of this subsection, failure to comply with the said subsection (4) is an offence upon summary conviction of which the registered owner is liable to a fine not exceeding €1,000.”,

(f) by inserting after subsection (8) the following:

“(8A) The payment of a fixed charge shall not be accepted after the expiration of the period of 56 days beginning on the date of the notice concerned that was served or affixed under subsection (2) or served under subsection (5) of this section, as the case may be.”,

(g) in subsection (9), by substituting for paragraph (a) the following:

“(a) a person or the person to whom the notice applies may, during the period specified in the notice, as specified in the notice make a payment.”,

(h) by substituting for subsection (10) the following:

“(10) In a prosecution for a fixed charge offence it shall be presumed until the contrary is shown that—

(a) the relevant notice under this section has been served or caused to be served, and

(b) that a payment pursuant to the relevant notice under this section, accompanied by the notice, duly completed (unless the notice provides for payment without the notice accompanying the payment), has not been made.”,

and

(i) by inserting after subsection (22) the following:

“(23) (a) The Minister for Justice, Equality and Law Reform may, by an agreement in writing, entered into with a person, upon such terms and conditions as may be specified in the agreement, provide for the performance by that person of—

(i) the function of the Commissioner in respect of the serving of a document under subsection (5) of this section, or

(ii) any of the functions of a member of the Garda Síochána or a traffic warden under this section other than the functions specified in subsection (2) of this section.

(b) An agreement referred to in paragraph (a) of this subsection may apply to the performance of all or any of the functions to which

[No. 44.] *Road Traffic Act 2004.* [2004.]

Pt.3 S.18

that paragraph refers in respect of all or selected offences in respect of which this section applies.

- (c) Section 14(2), (3) and (4) of the Road Traffic Act 2002 applies to any agreement entered into by the Minister for Justice, Equality and Law Reform under paragraph (a) of this subsection.”.

(2) Regulations made under subsection (1) of section 103 of the Principal Act which are in force immediately before the commencement of the amendment effected by *subsection (1)(a)* continue in force after such commencement as if made under that subsection inserted by *subsection (1)(a)*.

Driver of vehicle where registered owner is not an individual.

19.—(1) For the purposes of subsection (11) of section 103 (inserted by section 11 of the Act of 2002) of the Principal Act and subsection (10) of section 3 (inserted by section 12 of the Act of 2002) of the Act of 1975 where the registered owner of the mechanically propelled vehicle concerned does not furnish the information specified in either of those subsections and the owner is not an individual, then—

- (a) where the vehicle has been registered in the State but has not been first licensed under the Regulations of 1992, the individual who applied for registration under section 131 of the Finance Act 1992,
- (b) where the vehicle has been licensed in the State under the Regulations of 1992—
- (i) subject to *subparagraph (ii)*, the individual who most recently applied to have the vehicle licensed before the commission of the alleged offence, or
- (ii) where ownership of the vehicle has been transferred from another person to the owner before the commission of the alleged offence and the registered owner as the new owner of the vehicle has not applied to have it licensed under the Regulations of 1992, the individual who signed as the new owner of the vehicle the notification of transfer of vehicle ownership under the Regulations of 1992 relating to the vehicle,
- (c) where the vehicle is used under a trade licence issued under section 21 of the Finance (No. 2) Act 1992, the individual who most recently applied for the licence before the commission of the alleged offence, or
- (d) where the vehicle was the subject of a hire-purchase agreement or a letting agreement at the time of the commission of the alleged offence—
- (i) the individual who was in possession of the vehicle under the agreement, or
- (ii) where the person who was in possession of the vehicle under the agreement is not an individual, the individual who made the agreement with the owner for possession of the vehicle under the agreement,

is deemed to have been driving or otherwise using the vehicle at the time of the alleged offence. Pt.3 S.19

(2) For the purposes of subsection (1)—

- (a) in relation to section 103(11) of the Principal Act, a member of the Garda Síochána, or
- (b) in relation to section 3(10) of the Act of 1975, a traffic warden,

shall, at all reasonable times, have access to and may inspect and examine—

- (i) the register maintained under section 131 of the Finance Act 1992 or article 22 of the Regulations of 1992,
- (ii) records maintained under section 60 (as amended by section 86 of the Finance Act 1994) of the Finance Act 1993, or
- (iii) any documents in the possession of the registered owner relating to the vehicle concerned,

and may require such information (including information of the identity of any driver of the vehicle concerned) of the registered owner concerned or a person in his or her employment as the member or warden considers necessary.

(3) A person who, without reasonable excuse, fails to provide a member of the Garda Síochána or a traffic warden with a relevant document referred to in *subsection (2)(iii)* or such information as may be relevant for the purposes of this section or who provides information which is false or misleading is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000.

(4) In *subsection (1)(a), (b) and (c)* “individual” means—

- (a) the director, manager, partner, secretary or other officer (including a member of any committee of management or other controlling authority) of a body corporate or unincorporated body of persons in whose name or on behalf of whom the application was made, or
- (b) that person himself or herself, being the director, manager, partner or other officer, if he or she made the application.

(5) In this section—

“document” includes any book, record or any other written or printed material in any form including any information stored, maintained or reserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form;

“Regulations of 1992” means the Road Vehicles (Registration and Licensing) (Amendment) Regulations 1992 (S.I. No. 385 of 1992) (as amended);

“traffic warden” means a traffic warden within the meaning of the Act of 1975.

20.—Where an offence under section 103(8)(h) (inserted by section 17(d)(ii)) of the Principal Act or section 3(7)(h) (inserted by Offence by body corporate, etc.

[No. 44.] *Road Traffic Act 2004.* [2004.]

Pt.3 S.20

section 23(c) of the Act of 1975 is committed by a body corporate or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons and it is proved to have been so committed with the consent or connivance of or to be attributable to any wilful neglect on the part of any other person who, when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer (including a member of any committee of management or other controlling authority) of such body, such other person as well as the body, or the person so purporting to act on behalf of the body, is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Inspection of driving licences of persons charged with certain offences.

21.—The following section is substituted for section 22 of the Act of 2002:

“22.—(1) A person who it is alleged has committed an offence or has been charged with the commission of an offence under the *Road Traffic Acts 1961 to 2004* other than—

(a) section 84 (inserted by section 15 of the Act of 2002), section 85 (inserted by section 16 of the Act of 2002) or section 101 of the Principal Act, or

(b) section 35 (in so far as it relates to the parking of vehicles) or section 36 of the Act of 1994,

and is due to appear before a court to answer the accusation or charge, shall on the first date he or she is due to appear before the court or on a subsequent date at the discretion of the presiding judge, produce to the Court his or her driving licence and the Court shall record whether or not the licence has been produced.

(2) A person who fails to produce his or her licence to the court in accordance with the requirements of subsection (1) is guilty of an offence.

(3) In any proceedings for an offence under subsection (2)—

(a) a certified copy of a court order in relation to an offence referred to in subsection (1), or

(b) any other form of notification certifying that the driving licence was not produced to the court as provided for in the Rules of Court,

is admissible as evidence of those facts.”.

Amendment of First Schedule to Act of 2002.

22.—The First Schedule to the Act of 2002 is amended—

(a) in Part 1, by inserting—

(i) in column (3) at reference number 9 after “Careless driving” the following:

“where the offence involves the use of a mechanically propelled vehicle”,

and

[2004.]

Road Traffic Act 2004.

[No. 44.]

(ii) after the matter at reference number 16 the following: Pt.3 S.22

“

17	Offence under section 51A of Road Traffic Act 1961	Driving without reasonable consideration	2	4
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”

and

(b) in Part 4, by substituting for the matter contained in column (3) at reference number 16 the following:

“Failure to comply with certain mandatory signs”.

23.—Section 3 (inserted by section 12 of the Act of 2002) of the Act of 1975 is amended—

Amendment of section 3 of Act of 1975 (Traffic Wardens).

(a) in subsection (3), by substituting for paragraph (b) the following:

“(b) the registered owner of the vehicle—

(i) being an individual was not driving or otherwise using the vehicle, or

(ii) being a body corporate or an unincorporated body of persons was not capable of driving or otherwise using the vehicle,

at the time of the commission of the alleged offence to which the notice relates,”

(b) by inserting after subsection (5) the following:

“(5A) (a) A notice under this section in the prescribed form may contain details of the manner of payment of a fixed charge.

(b) Notwithstanding the requirements of subsections (6), (7) and (8) of this section requiring that the payment of a fixed charge be accompanied by the notice served or affixed, as the case may be, the notice in the prescribed forms may contain details of the manner of payment of the fixed charge or without the payment being accompanied by the notice.”

(c) in subsection (7), by substituting for paragraph (h) the following:

“(h) subject to paragraph (f) of this subsection, failure to comply with the said subsection (4) is an offence upon summary conviction of which the registered owner is liable to a fine not exceeding €1,000.”

(d) by inserting after subsection (7) the following:

[No. 44.] *Road Traffic Act 2004.* [2004.]

Pr.3 S.23

“(7A) The payment of a fixed charge shall not be accepted after the expiration of the period of 56 days beginning on the date of the notice concerned that was served or affixed under subsection (2) or served under subsection (4) of this section, as the case may be.”,

and

(e) by substituting for subsection (9) the following:

“(9) In a prosecution for a fixed charge offence it shall be presumed until the contrary is shown that—

- (a) the relevant notice under this section has been served or caused to be served, and
- (b) that a payment pursuant to the relevant notice under this section, accompanied by the notice, duly completed (unless the notice provides for payment without the notice accompanying the payment) has not been made.”.

PART 4

MISCELLANEOUS

Courts Service to inform Minister of court orders under section 36 and 29 of Principal Act.

24.—Section 36 of the Principal Act is amended by substituting for subsection (8) (inserted by section 8(b) of the Act of 2002) the following:

“(8) The Courts Service shall inform the Minister of an order made—

- (a) under subsection (3) or (4) of this section,
- (b) suspending or postponing an order under either of those subsections, or
- (c) under section 29 of this Act removing a consequential or ancillary disqualification.”.

Amendment of section 9 of Act of 2002 (disqualification pursuant to European Convention on Driving Disqualifications).

25.—Section 9 of the Act of 2002 is amended by—

(a) substituting for subsection (8) the following:

“(8) When the appropriate judge makes or refuses to make an order under subsection (2), the Courts Service shall notify the Minister and the Minister shall cause the central authority of the State of the offence to be notified thereof.”,

and

(b) in subsection (9), substituting for paragraph (a) the following:

“(a) the Courts Service shall—

- (i) notify the Minister of the disqualification as soon as may be, and

[2004.] *Road Traffic Act 2004.* [No. 44.]

- (ii) comply with any request of the Minister for further details or information relating to the person, the offence, the disqualification or otherwise required for the purpose of the Convention.”

Pt.4 S.25

26.—(1) Section 35(2) of the Act of 1994 is amended by inserting after paragraph (s) the following: Permits.

“(t) the issue of permits at a prescribed charge by a local authority, or any other body authorised by the Minister to issue such permits, for the purpose of—

- (i) exempting permit holders from restrictions or prohibitions on parking applied under this section,
- (ii) allowing for the parking of vehicles by permit holders at specified locations, or
- (iii) exempting permit holders from the application of prohibitions and restrictions to specified traffic from entering or using specified roads, and

separate charges may be prescribed in respect of different permits.”

(2) The following subsection is inserted after subsection (6) of section 35 of the Act of 1994:

“(7) A permit issued under regulations made under subsection (2)(t) may be inspected, at all reasonable times, by a member of the Garda Síochána or (other than in respect of a permit issued under regulations made under subsection (2)(t)(iii)) a traffic warden.

(8) A person who, without reasonable excuse, fails or refuses to permit the inspection of a permit referred to in subsection (7) is guilty of an offence.”

27.—Requirements under the *Road Traffic Acts 1961 to 2004* relating to vehicles and requirements, restrictions and prohibitions relating to the driving and use of vehicles, other than those provided under sections 49 and 50 (inserted by sections 10 and 11, respectively, of the Act of 1994), 51A and 52 (inserted by sections 49 and 50, respectively, of the Act of 1968) and 53 of the Principal Act and sections 12, 13, 14 and 15 of the Act of 1994, do not apply to a driver of a fire brigade vehicle, an ambulance or the use by a member of the Garda Síochána of a vehicle in the performance of the duties of that member or a person driving or using a vehicle under the direction of a member of the Garda Síochána, where such use does not endanger the safety of road users. Exemptions for emergency vehicles.

28.—Any reference to the Commissioner in the *Road Traffic Acts 1961 to 2004* is to be read as a reference to the Commissioner or another member of the Garda Síochána not below the rank of Chief Superintendent authorised by the Commissioner to act or carry out a function or requirement on his or her behalf. Functions of Commissioner of Garda Síochána.

[No. 44.] *Road Traffic Act 2004.* [2004.]

Pt.4
Amendment of
section 84 of
Principal Act (bye-
laws in relation to
taxi stands).

29.—Section 84 (inserted by section 15 of the Act of 2002) of the Principal Act is amended by substituting in subsection (11) for the definition of “local authority” the following:

“‘local authority’ means a county council, a city council or a town council (within the meaning of the Local Government Act 2001) other than the council of a town mentioned in Part 2 of Schedule 6 to that Act;”.

Supply of
mechanically
propelled vehicles
to minor.

30.—(1) A person shall not supply a mechanically propelled vehicle—

(a) to a person who is under the age of 16 years, or

(b) other than a mechanically propelled vehicle in respect of which a person who has attained the age of 16 years is entitled to hold a driving licence to drive, to a person who is under the age of 17 years.

(2) A person who contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 6 months or to both.

(3) In this section “supply”, includes supply by way of sale, hire, loan, gift, or other means of making the vehicle available to a person.

Power of road
authority to provide
and maintain
certain equipment,
etc., on public
roads.

31.—(1) A road authority may, with the consent of the Commissioner or at his or her request, provide and maintain on public roads in their charge any equipment or structure which the authority consider desirable for the detection of offences under the *Road Traffic Acts 1961 to 2004*.

(2) Section 42 of the Act of 1994 is repealed.

“registered owner”.

32.—Section 3(1) of the Principal Act is amended by substituting for the definition of “registered owner” the following:

“‘registered owner’ has the meaning assigned to it by the Road Vehicles (Registration and Licensing) (Amendment) Regulations 1992 (S.I. No. 385 of 1992) (as amended by the Road Vehicles (Registration and Licensing) (Amendment) Regulations 2004 (S.I. No. 213 of 2004)), but, if those regulations should be revoked, it shall have the meaning assigned to it by such regulations corresponding to those regulations as may for the time being be in force;”.

Production of
driving licence to
member of Garda
Síochána
subsequent to
commission of road
traffic offence.

33.—(1) Where a member of the Garda Síochána has reasonable grounds for believing that—

(a) a mechanically propelled vehicle has been used in a public place on a particular occasion,

(b) the use may have involved the commission of an offence under the *Road Traffic Acts 1961 to 2004* (including a case in which the member has himself or herself observed the use), and

(c) the actual user of the vehicle was a particular person,

[2004.] *Road Traffic Act 2004.* [No. 44.]

the member may at any time or times subsequent to the occasion in question require of the person the production of a driving licence, having effect and licensing the person to drive the vehicle used on the occasion in question, at a Garda Station or another place specified by the member, within the period of 10 days of the date of making the requirement. Pt.4 S.33

(2) A person who fails to comply with a requirement under *subsection (1)* is guilty of an offence.

PART 5

INSURANCE

34.—The Principal Act is amended by substituting for section 56 the following: Obligation to be insured.

“56.—(1) A person (in this subsection referred to as the user) shall not use in a public place a mechanically propelled vehicle unless—

- (a) either a vehicle insurer or an exempted person would be liable for injury caused by the negligent use of the vehicle, by him or her at that time, or
- (b) there is in force at that time an approved policy of insurance whereby the user or some other person who would be liable for injury caused by the negligent use of the vehicle at that time by the user, is insured against all sums, subject to subsection (2) of this section, without limit, which the user or his or her personal representative or such other person or his or her personal representative becomes liable to pay to any person (exclusive of the excepted persons) by way of damages or costs on account of injury to person or property caused by the negligent use of the vehicle at that time by the user.

(2) The insurance required by this section may be subject to the following limitations and the following exception or any of them—

- (a) it may in so far as it relates to—
 - (i) injury to a person, be limited to such sum as the Minister specifies in regulations,
 - (ii) injury to property, be limited to the sum of €200,000,

in respect of injury caused by any one act of negligence or any one series of acts of negligence collectively constituting one event,
- (b) there may be excepted from the liability covered thereby any liability (in excess of the common law or the statutory liability applicable to the case) undertaken by the insured or the principal debtor by special contract.

(2A) (a) A draft of every regulation proposed to be made under subsection (2)(a)(i) of this section shall

[No. 44.] *Road Traffic Act 2004.* [2004.]

Pt.5 S.34

be laid before each House of the Oireachtas and the regulation shall not be made until a resolution approving of the draft has been passed by each such House.

(b) Section 5(2) of this Act does not apply to a regulation made under subsection (2)(a)(i) of this section.

(3) An approved policy of insurance referred to in subsection (1)(b) of this section extends to damages or costs on account of injury to persons or property incurred by the negligent use of a mechanically propelled vehicle by the user in any of the designated territories to the extent required by the law relating to compulsory insurance against civil liability in respect of the use of mechanically propelled vehicles of the territory where the damages or costs may be incurred, or to the extent required by this Part, whichever is the greater.

(4) Where a person contravenes subsection (1) of this section, he or she and, if he or she is not the owner of the vehicle, such owner are each guilty of an offence and are liable on summary conviction to a fine not exceeding €3,000 or, to imprisonment for a term not exceeding 6 months, or to both.

(5) Where, in a prosecution for an offence under this section, it is shown that, a demand having been made under section 69 of this Act—

(a) the person on whom the demand was made refused or failed to produce a certificate of insurance or certificate of exemption then and there, or

(b) such person, having duly produced such certificate consequent upon the demand, refused or failed to permit the member of the Garda Síochána to whom such certificate was produced to read and examine it,

it shall be presumed, until the contrary is shown by the defendant, that the vehicle was being used in contravention of this section.

(6) Where a person charged with an offence under this section is the owner of the vehicle, it is a defence to the charge for the person to show that the vehicle was being used without his or her consent and either that he or she had taken all reasonable precautions to prevent its being used or that it was being used by his or her employee acting in contravention of his or her instructions.

(7) Where a person charged with an offence under this section was an employee of the owner of the vehicle, it is a defence to the charge for the person to show that he or she was using the vehicle in compliance with the express instructions of the owner.

(8) In this Part ‘designated territories’ means the European territories of the Member States of the European Communities (other than the State) and Croatia, Iceland, Norway and Switzerland.

(9) In this Part a reference to the territory in which a vehicle is normally based is a reference to—

[2004.] *Road Traffic Act 2004.* [No. 44.]

- (a) the territory of the state of which the vehicle bears a registration plate, Pt.5 S.34
- (b) in a case where registration is not required for a type of mechanically propelled vehicle, but the vehicle bears an insurance plate or a distinguishing sign analogous to the registration plate, the territory of the state in which the plate or sign is issued, or
- (c) in a case where a registration plate, an insurance plate or a distinguishing sign is not required for a mechanically propelled vehicle, the territory of the state in which the person who has custody of the vehicle is permanently resident.

(10) In this Part—

‘mechanically propelled vehicle’ includes a semi-trailer or trailer (whether coupled or uncoupled to a mechanically propelled vehicle) used in a public place;

‘semi-trailer’ means the drawn component of an articulated vehicle or a vehicle constructed or adapted for use as such drawn component;

‘trailer’ means a vehicle attached to a mechanically propelled vehicle (or to another vehicle attached to a mechanically propelled vehicle) or a vehicle constructed or adapted for the purpose of being drawn by a mechanically propelled vehicle.

(11) Nothing in this Part shall be read as extending compulsory motor insurance cover to any person in or on a semi-trailer or trailer when used in a public place.”.

35.—Part 1 of the Table to section 23 of the Act of 2002 is amended by the deletion of the matter in columns (2) and (3) at reference number 18. Amendment to Table to section 23 of Act of 2002.

PART 6

AMENDMENT OF TAXI REGULATION ACT 2003

36.—Section 36 of the Taxi Regulation Act 2003 is amended— Amendment of section 36 of Taxi Regulation Act 2003 (mandatory disqualification).

(a) in subsection (1), by substituting after paragraph (i) for the matter from and including “the person—” down to and including “stands revoked.” the following:

“the person—

- (i) in the case of being convicted summarily, where a penalty other than a term of imprisonment (that the person serves in whole or in part) is imposed by the Court, is disqualified for holding a licence for a period of 12 months and, accordingly, where the person is the holder of a licence, the licence stands suspended for that period,

[No. 44.] *Road Traffic Act 2004.* [2004.]

Pt.6 S.36

(ii) in any other case, subject to subsection (2), is disqualified for holding a licence and, accordingly, where the person is the holder of a licence, the licence stands revoked.”,

(b) by inserting after subsection (1) the following:

“(1A) A disqualification, revocation or suspension under subsection (1) takes effect upon—

(a) the expiration of the ordinary time for bringing an appeal against the conviction concerned, and

(b) in the event of an appeal—

(i) where the conviction is confirmed, its confirmation, or

(ii) its withdrawal.”,

(c) in subsection (2), by substituting for subparagraphs (i) and (ii) and the matter following those subparagraphs to the end of the subsection the following:

“(i) where the offence has been tried—

(I) summarily, to the judge of the District Court in whose district court district, or

(II) on indictment in the Circuit Court, to the judge of the Circuit Court in whose circuit,

the person intends to provide small public service vehicle services,

or

(ii) where the offence has been tried on indictment in the High Court, to a judge of the High Court, to be allowed to apply for a licence under such terms and conditions as the Court sees fit.”,

(d) by inserting after subsection (2) the following:

“(2A) (a) A person intending to make an application to the Court under subsection (2) shall give 21 days notice in writing of that intention to the Superintendent of the Garda Síochána for the district in which the person ordinarily resides and, where the person is the holder of a licence, to the licensing authority which granted the licence.

(b) At the hearing of the application under subsection (2)—

[2004.]

Road Traffic Act 2004.

[No. 44.]

- (i) the Superintendent of the Garda Síochána, Pt.6 S.36
- (ii) where the person making the application is the holder of a licence, the licensing authority which granted the licence, and
- (iii) any other person whom the Court considers relevant or affected by the application,

may appear and shall be entitled to be heard and to adduce evidence to the Court, and any such evidence may be considered by the Court when it is considering an application by a person under subsection (2).

(c) The Court shall cause notice of its decision on an application under subsection (2) to be given to the Superintendent of the Garda Síochána for the district in which the applicant ordinarily resides and to the licensing authority concerned, as appropriate.

(d) The decision of the Court on an application under subsection (2) is final, save that, by leave of the Court, an appeal from the decision lies—

- (i) in the case of a decision of the District or Circuit Court, to the High Court, or
- (ii) in the case of a decision of the High Court, to the Supreme Court,

on a specified question of law.”,

and

(e) by inserting after subsection (3) the following:

“(3A) Subsection (1) applies to a person who has been convicted of an offence referred to in that subsection before the commencement of that subsection other than a person who is or has been convicted summarily where a term of imprisonment is or has not been imposed on the person in respect of an offence committed before the commencement.”.