



**Isle of Man
Government**

Reiltys Ellan Vannin



ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2016

DEPARTMENT OF INFRASTRUCTURE
HIGHWAY SERVICES DIVISION

ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2016

This consultation is designed to invite your comments on the accompanying Road Traffic Legislation (Amendment) Bill 2016, which the Department subject to the Council of Ministers' approval proposes to introduce into the Keys this session.

The Bill is a wide-ranging affair that makes disparate and in many cases important amendments to the law appertaining to the regulation of vehicles and to persons driving or in charge of them. The amendments affect three Acts: the Road Traffic Act 1985, which relates principally to the driving, construction and proper use of vehicles; the Road Traffic Regulation Act 1985, which, as its name implies, is principally concerned with regulating and enforcing where vehicles may be driven and parked on roads, though other matters are also addressed such as the prescribing of pedestrian and school crossings and the imposition of speed limits; and Part I of the Local Government (Miscellaneous Provisions) Act 1984, which at present deals with the removal and disposal of abandoned or illegally parked vehicles.

The thrust of the Bill's provisions is extensively set out in the Explanatory Memorandum affixed to the Bill, but as with all such memoranda it does not extend to explaining the reasons which have given rise to their inclusion. Consequently, Part 2 of the document sets out the policy considerations which underlie the principal amendments.

Also accompanying the Bill is the Buses (Carriage of Passengers for Hire or Reward) (Construction and Use) (Amendment) Regulations 2016, which amend Buses (Carriage of Passengers for Hire or Reward) (Construction and Use) Regulations 2001 in pursuance of enabling powers contained in the Equality Act 2015. Details of what these Regulations aim to achieve are contained in the Explanatory Note on the final page of the Regulations.

Phil Gawne, MHK

Minister of the Department of
Infrastructure

John Houghton, MHK

Member for the Highway Services
Division

PRINCIPAL POLICY CONSIDERATIONS UNDERLYING THE BILL

Introduction

1. Whereas, as previously explained, the Explanatory Memorandum affixed to the Bill necessarily limits itself to describing its effects, this annex concentrates on setting out the basic policies that underlie its principal provisions.

Amendment of the Road Traffic Act 1985

Extension of driving offences to animal-drawn vehicles

2. With the coming of the motor vehicle a century ago legislation regulating the driving of horse-drawn vehicles was swept away in the mistaken belief that their use had been entirely superseded on public roads. Yet such was not the case, as evinced by their continuing use at weddings and other events, with the lack of regulation being highlighted by a tragic incident that occurred in Derby, England, not too long ago — an incident in which a mother was seriously injured and her teenage daughter killed by a horse that broke away from its carriage and ran them down on the pavement. The only statutory offence, involving negligently or wilfully misusing a carriage, was section 78 of the GB Highway Act 1835, which had an inappropriate maximum penalty of £100. For that reason the prosecuting authority brought a charge of manslaughter, but the judge ruled that the circumstances did not warrant such a grave charge and the trial was halted. So the offender was not brought to book and the family were denied retributive justice, a central pillar of the criminal law.

3. At present such a situation could equally arise in the Island, where regulation is limited to the offence of furious driving as contained in section 66(4) of the Petty Sessions and Summary Jurisdiction Act 1927. It carries a maximum penalty of £5,000. The problem here is that "furious driving" is not defined, is in any event extremely restricted in scope, and does not cover the wide range of circumstances that the driving offences relating to mechanically propelled vehicles address.

4. Therefore, in a very economical way, clause 4 extends those driving offences to animal-drawn vehicles, being offences that relate to dangerous driving, careless or inconsiderate driving, drink or drug driving, or causing death or serious bodily harm where such driving is involved.

5. For completeness the expression "animal-drawn" is preferred to "horse-drawn".

Updating the Island's law on drug driving

6. Until 20 years ago the Island's law on driving under the influence of drugs was identical to GB's, but whereas the latter has been improved during the intervening period, the former has not. If those improvements are now enacted, they are most likely to be of equal service to the Island.

7. Accordingly, as with the preliminary breath test for use in connection with drink driving — a test that has long been on the Statute Book, clause 8 enables a constable to administer a preliminary drug test in specified circumstances by using a device approved by the Department of

Home Affairs. The clause will not be brought into operation until the device is so approved and becomes available for use by the police.

8. Among the drugs that the preliminary drug test will be administered to test for is a series of controlled drugs beyond specified limits, being limits that clause 6 makes it an offence to exceed if a person drives, attempts to drive, or is in charge of a vehicle. A "controlled drug" is one classified as class A, B or C for the purposes of the Misuse of Drugs Act 1976, being a drug of a dangerous or otherwise harmful kind that it is unlawful for a person to possess unless it is prescribed or supplied for medical or dental purposes. The series of controlled drugs and their specified limits, which are the same as for the like offence in GB, are provisional and will be the subject of advice to be sought from the Island's Advisory Council on the Misuse of Drugs.

9. In the light of the offence created by clause 6 a number of consequential amendments are made to other provisions of the Act.

Lowering the legal alcohol limit for drivers

10. The present limit, which is the same as in England, Northern Ireland and Wales, is a blood alcohol content (BAC) of 80 mg of alcohol in 100 millilitres of blood, with equivalent proportions prescribed in relation to breath and urine. Many European countries, on the other hand, have a lower BAC limit of 50 and in December 2014 Scotland followed suit. It is now proposed to adopt in the Island the European limit in the light of two recent reports.

11. The first was prepared by the National Institute for Health and Clinical Excellence (NICE). It is an organisation which is part of the National Health Service in England and Wales and provides national guidance on health matters. Entitled a "Review of effectiveness of laws limiting blood alcohol concentration levels to reduce alcohol-related road injuries and deaths", the report comprises a rigorous review of the best available evidence, much of it from the USA, Australia and other European countries. As the report says, its findings, certain conclusions of which are summarised below, "provide an important basis for informing government policy on drink driving."

12. The review concluded that -

- there is strong evidence that a person's ability to drive is affected if he or she has any alcohol in their blood. Drivers with a BAC of between 20 and 50 have at least a three times greater risk of dying in a vehicle crash. This risk increases to at least six times with a BAC between 50 and 80 (the current IOM limit), and to eleven times with a BAC between 80 and 100;
- younger drivers are particularly at risk of crashing whenever they have consumed alcohol, whatever their BAC level, because they are less experienced drivers, are immature, and have a lower tolerance to the effects of alcohol than older people;
- younger drivers may also be predisposed to risk-taking, regardless whether or not they have consumed alcohol;
- overall, there is sufficiently strong evidence to indicate that lowering the legal BAC limit for drivers does help reduce road traffic injuries and deaths in certain contexts;
- when a BAC limit of 50 was introduced in 15 European countries, it collectively led to 11.5% fewer alcohol-related driving deaths among young people aged 18 to 25, the group most at risk;

- there is sufficiently strong evidence to indicate that lowering the BAC limit changes the drink-driving behaviour of drivers at all BAC levels and that the BAC law acts as a general deterrent. One study showed that a lower BAC limit had a differential impact according to age, with the highest reductions in deaths among younger drivers (14% reduction among 18-20 years, 9.7% among 21-24 years, and 6.7% among those aged 25 or older); and
- overall, reducing the BAC limit is an effective drink-driving deterrent.

13. NICE's findings have been broadly supported by the British Medical Association, the Royal College of Physicians, and the Alcohol Health Alliance UK.

14. The second report was prepared by Sir Peter North, a former Principal of Jesus College, Oxford, who came to similar conclusions.

15. So, how much alcohol will you be able to consume and stay within the prescribed limit? Well, the short answer is that there is no safe way to calculate, for the effect of alcohol on the body varies, depending on factors such as —

- your weight,
- your gender (men tend to process alcohol faster than women),
- your metabolism,
- the type of alcohol that you are drinking,
- your age (younger persons tend to process alcohol more slowly),
- your current stress levels, and
- whether you have eaten recently.

16. All that can be said, as established by the reports, is that reducing the BAC will reduce the number of road casualties, given that even a small amount of alcohol can —

- reduce your co-ordination,
- slow your reactions,
- affect your vision,
- affect your judgement of speed and distance,
- make you drowsy, and
- make you more likely to take risks.

17. As regards the introduction of the lower limit in Scotland, a survey in February 2015 by the hospitality sector stated that Scottish businesses had seen bar sales drop by up to 60 per cent in the preceding two months. According to Paul Waterson, chief executive of the Scottish Licensed

Trade Association, "It's stopped people having a drink at lunchtime or having a drink on their way home from work." His remarks were echoed by those of Lynn Adams, publican of The George Bar, Hamilton, who was quoted in "The Independent" on 13 April 2015: "There's definitely been a drop in business over the last few months. December, when the new law came in, is always a false time for the trade because you have the Christmas period anyway, but once we got into January and February we started to notice it. We have customers coming into the bar, dropping in from their way home from work, and they feel that it's not worth taking the chance. It also looks like people are coming out a bit earlier in the evening and leaving a bit sharper. They want to stop drinking earlier than they normally would because they're frightened of getting caught the next morning with alcohol still in their bloodstream." For their part Police Scotland reported that in the three weeks after the limit came into force 255 people were found to be driving under the influence of drink or drugs compared to 348 a year earlier, a decrease of 27 per cent. So, all in all, the consensus was that the lower limit was having the desired effect on drink driving.

Riding on footways

18. Footways, commonly called pavements, are ways for pedestrians that adjoin the carriageways of all-purpose highways. At present it is an offence to "drive" a vehicle on them, which begs the question whether "riding" a vehicle is also covered. Therefore the law is clarified by specifically extending the offence to riding, but with the qualification that prescribed vehicles will be capable of being exempted from the prohibition by order. Exemptions might, for example, include Segways operated at a very low speed and pedal cycles ridden at such a speed on footways exceeding a prescribed width. The present exemption for mobility scooters will not be affected.

Manx Horse-drawn Vehicles Code

19. Power is taken enabling the Department to publish a code for the guidance of persons using horse-drawn vehicles on roads. A companion to the Manx Highway Code, which has been recently revised and republished, it will not in fact render a person liable to criminal proceedings if he or she fails to observe it. Nevertheless, failure will be able to be relied on in such proceedings, or civil ones, as tending to establish or to negative any liability that is in question.

Furnishing of information

20. Clause 14 substitutes a new section 20 relating to the duty of a driver or rider to provide his or her name and address, those of the vehicle's owner, and evidence of insurance or security in the case of a motor vehicle, to any person reasonably requiring them in the event of an accident. The clause makes four substantive changes: first, it is extended from motor vehicles to those that are not mechanically propelled; second, it now defines "vehicle" as including ridden animals; third, it extends the provisions to accidents involving the death or injury of cats; and finally, it requires not only a vehicle to stop, as at present, but also to remain stationary at or near where the accident occurred for as long as is reasonably necessary to comply with the duty to provide the specified information.

21. Clause 22 substitutes three new sections. In the wider interest of ensuring observance of the law section 42 extends from constables to authorised examiners of the Department, who test vehicles and frequently attend accidents, the power to require the production of a driving licence. The section goes on to correct an anomaly whereby driving offences extend to public places but at present the above power does not. Section 43, which empowers constables to require the furnishing of names and addresses in specified circumstances, is likewise extended to authorised

examiners and the same anomaly is corrected. Section 44, which, in the case of motor vehicles, applies presently to the furnishing of names and addresses only where the offences of dangerous, or careless or inconsiderate, driving are involved, is extended to any serious driving offence (as defined in clause 33) on the ground that it is illogical and against the public interest for such wider offences to be excluded. For self-evident reasons a constable's power of arrest without warrant is extended to circumstances in which he or she has reasonable grounds for believing that a person's stated name or address is false or that the stated address is not a satisfactory address for the service of a summons.

Enforcement of motoring fines, etc

22. To facilitate the collection of motoring fines and vehicle duty clause 24 inserts a new section 47AB that provides for their enforcement by way of seizing motor vehicles if —

- in the case of motoring fines, payment is outstanding for longer than 35 days, and
- in the case of vehicle duty, no current vehicle licence has been exhibited on a vehicle for at least one month.

If the fines or duty, together with the costs of seizure and retention, are not then paid within 35 days, vehicles may be disposed of and the proceeds used for payment.

23. The section applies with adaptations the provisions inserted by the Road Traffic and Highways (Miscellaneous Amendments) Act 2012 for the seizure, retention and disposal of vehicles owned by persons charged with and convicted of certain serious driving offences. The section concludes by enabling orders subject to Tynwald approval to extend the related fines to ones not necessarily connected with motoring.

Driving disqualification where vehicles are used for the purposes of crime

24. As a further deterrent to using motor vehicles for such purposes clause 31 inserts a new section 53A enabling a court to disqualify an offender who uses a motor vehicle to commit an assault or any other offence punishable by imprisonment for a term of two years or more.

Use of Motor Insurers' Database

25. In furtherance of detection of crime clause 33 provides a revised definition of "authorised insurer", the effect of which is to require motor insurers to provide information about policy holders to the database for use by the Department or the police.

Regulatory powers and extension of certain liability

26. Clause 34 inserts three new sections. Section 73A takes a leaf out of corresponding statutory procedures in the UK so that, like the Department for Transport there, the Department is empowered to make safety regulations on road traffic, road transport and related matters — in the Department's case, under the Consumer Protection Act 1991. A relevant example is the UK Motor Vehicle Tyres (Safety) Regulations 1994 (as amended) made by the UK Department under the UK Consumer Protection Act 1987. Among other things, they regulate the part-worn tyre market, which a recent survey has established exists in the Island but which at present is completely unregulated to the detriment of the consumer. If the section is enacted, the Department proposes to bring forward safety regulations that will fill the gap.

27. In view of the increased danger to other road users that may arise from the misdriving of heavier or larger vehicles section 73B enables regulations effectively to provide for 5-yearly training courses to be taken by professional drivers of lorries, buses and coaches and for the issue to them of a professional driver's card, which they must carry, certifying that they have successfully completed such a course. The scheme is analogous to that presently applying to drivers of dangerous goods vehicles. Although it will not be introduced immediately, it is clearly desirable that the enabling powers should be in place for when it is desired to proceed.

28. Section 73C inserts a deterrent measure advocated by the then High Bailiff some while ago. If a body corporate is found guilty of contravening the Island's construction and use regulations, and if it is proven that the offence was committed with the consent or connivance of a director etc or was attributable to his or her neglect, the section provides that he or she is also guilty of the offence and is personally liable to the penalty for it.

Regulation of the construction and use of vehicles and their equipment

29. Clause 36 amends Schedule 2 so as to regularise the current practice of the police and the Department's authorised examiners when it comes to the testing and inspection of vehicles under the construction and use regulations, which will be amended if this clause is enacted. The enabling powers are modified to the extent that the authorisation conferred by the regulations —

- is not limited to testing and inspection on premises where a vehicle may be situated,
- is not dependent on the consent of the owner of the premises, should testing and inspection take place there, if the vehicle is reasonably suspected of having been involved in an accident, and
- includes a vehicle's being driven or drawn,

all of which is considered to serve better the public interest. Supplementary provision is added making it an offence to obstruct intentionally a test or inspection.

30. Regulations are also empowered to make provision as to the construction and equipment of vehicles for use, and the conditions under which they may be used, by disabled persons. A preliminary draft of the regulations, which it is proposed to submit for Tynwald approval immediately after the enactment of the Bill, accompanies this letter for public comment.

31. The Road Vehicles carrying Dangerous Goods (Construction and Use) Regulations 2008 apply with modifications certain provisions of the European Agreement concerning the International Carriage of Dangerous Goods by Road (the ADR), which is regularly updated. Unlike the GB Department for Transport, which has an extensive division dealing with dangerous goods alone, the Department simply does not have the capacity to be continually making corresponding amendments to its Regulations. Therefore, given that the updates of the ADR's applied provisions invariably involve only minor fine-tuning, provision is made giving effect to them automatically in the Island, but with substantially the same modifications, if any, as were made by the Island's Regulations to the original provisions.

32. Finally, in the interests of road safety paragraph 6I of Schedule 2 is extended to enable an authorised examiner to prohibit the driving of unfit vehicles tested, inspected or examined under the Road Transport Act 2001, which presently applies to the licensing and registration of public passenger vehicle operators and their vehicles.

Matters relating, on the one hand, to driving licences and tests and, on the other, to disqualification

33. Clause 37 extensively amends Parts I and II of Schedule 3.

Amendment of Part I: driving licences and tests

34. In furtherance of the safety of motorcyclists paras 2 and 6 are amended enabling regulations to provide that such persons must wear protective clothing of a prescribed kind when taking a driving test or a compulsory basic training course.

35. New road-safety provisions are inserted in a substituted para 4. First, a declaration accompanying an application for a driving licence must now state, in a case where an applicant is not suffering from a relevant disability, whether he or she is suffering from a prospective relevant disability. A relevant disability, which for many years has had to be declared, is one likely to cause an applicant's driving of a vehicle to be a source of danger to the public. A prospective relevant disability, which henceforth will need to be declared, is one which, by virtue of its intermittent or progressive nature or otherwise, may become a relevant disability in the course of time. Whereas an applicant suffering from a relevant disability, unless it is prescribed in the Driving Licences and Tests Regulations 2007, may not be granted a licence, an applicant suffering from a prospective relevant disability will normally not be granted a licence for a period of more than three years and not less than one.

36. Second, para 4 now requires the Department to include in a licence the driving conditions to which the holder is subject in a case where the Department is satisfied that the person in question is suffering from a disability presenting a danger to the public if the conditions are not complied with.

37. Third, para 4 now makes it an offence, firstly, to make a false declaration to obtain a licence; secondly, to drive a motor vehicle contrary to any limitation or condition included in a licence; and finally, to fail to return forthwith a licence to the Department when required to do so under the para.

38. Finally, in the light of the Glasgow bin lorry tragedy, where the driver's failure to declare that he was liable to fall unconscious at the wheel led to the deaths of several people, and where, as at present in the Island, the law was found inadequate to bring a prosecution, the offence of making a false declaration, as provided in clause 40(36), is made triable either way: in lesser cases, summarily, with a maximum fine of £5,000; and in graver cases, on indictment, with penalties of 14 years' custody or an unlimited fine or both.

39. Two new paras are inserted, again in the interests of road safety. Para 4A requires that an application to renew a licence to drive large passenger or heavy goods vehicles or combinations must be accompanied by a certificate from a medical practitioner that the applicant is still fit to drive them. Para 4B requires that an applicant for a licence who is aged 75 or over must have passed a prescribed eyesight test.

40. Para 5 relates to the Department's obtaining advice from medical practitioners about persons suspected of suffering from a disability. At present it leaves practitioners to claim whatever fees they think fit. In the interest of economy an amendment is now made enabling the Department to prescribe the levels of fees that are payable. In offering advice practitioners routinely but unofficially have regard to "At a glance guide to the current medical standards of

fitness to drive" published periodically by the GB Driver and Vehicle Licensing Agency. A further amendment now gives statutory recognition to the document by requiring that regard must be had to it.

41. An anomaly in para 6 is corrected. At present it requires provisional licence holders to be subject to the prescribed restrictions, which include driving at a speed no faster than 50 mph and using L-plates. However, such restrictions do not extend to persons driving a vehicle by virtue of a provisional entitlement conferred by a full licence. They now extend. Contravening the restrictions is also made a specific offence.

42. Provision is inserted in paragraph 6B to the effect that newly qualified drivers shall at an earlier date cease to be subject to the prescribed restrictions applying to them if they pass a prescribed course of driving instruction.

43. A new para 9 is substituted, which relates to a person's driving a motor vehicle on a road with eyesight not sufficiently corrected to comply with the prescribed eyesight test. As at present, it is an offence to do so. Suspected offenders must also, again as at present, be reported by the police to the Department, which must require them to take the test. What is new is provision requiring the revocation of a licence if the test is failed, together with making it an offence not to return a revoked licence forthwith to the Department when required to do so.

Amendment of Part II: disqualification

44. Paragraph 11 is amended by providing that a person convicted of the offence created by clause 6 is subject to disqualification for not less than two years.

45. In the interests of road safety provision is inserted in paragraph 12 reducing from 12 or over to 6 or over the number of penalty points leading to the disqualification of a provisional or newly qualified driver or to the revocation of his or her licence, as the case may be. The effects of the disqualification or the revocation are specified.

46. Para 20(4), which at present relates to the delivery of a licence to a court in cases involving obligatory disqualification, is now extended to cases of discretionary disqualification.

47. Paragraph 20(8) is substituted so as to specify a period of 11 years during which an endorsement on a licence remains effective on conviction of certain offences involving drink or drugs.

48. Paragraph 22 is now modified and enables the Department to amend the complexity of Schedule 3 by regulations subject to Tynwald approval.

49. Consequent upon the revised definition of "authorised insurer", to which clause 33 relates, clause 39 enables the Department to make regulations as to the use of information obtained from the Motor Insurers' Database in furtherance of the detection of crime.

50. Clause 40 increases the penalties described in para 39 of the Bill's Explanatory Memorandum in view of the increased seriousness with which contravention of the related offences is now viewed.

Amendment of the Road Traffic Regulation Act 1985

Traffic regulation orders

51. To cover the Department's administrative expenses clause 44 enables traffic regulation orders to provide for the charging of fees, for example in relation to the issue of permits. Provision is also inserted exempting vehicles being used by the emergency services from complying with such orders in emergencies unless the orders specifically provide otherwise.

Regulation principally of overseas caravans coming to the Island

52. Clause 46 inserts a new section 2B, the purpose of which is primarily to regulate the entry into the Island, and the use in it, of overseas caravans, their entry being at present dependent on a gentleman's agreement with the Isle of Man Steam Packet Company. The section enables orders subject to Tynwald approval to be made prohibiting or restricting the use of vehicles on or off roads either throughout the Island or in prescribed localities.

Temporary notices regulating traffic

53. Clause 47 removes the bureaucratic involvement of the Council of Ministers by enabling the Department, without reference to the Council, to extend the validity of notices or to renew them, dependent as they are on traffic considerations.

Temporary alternative school crossings

54. Where school crossings have temporarily to be relocated, often for only a few hours due, for example, to road works, clause 48 replaces the present bureaucratic procedure of having to amend the related regulations by simply substituting the display of a relocation notice on site.

Overstay charges

55. Clause 50 amends section 14A and caters for the prescribing of overstay charges in the case of on-street parking places. Such charges are payable for a period in excess of an initial period for which there is no charge.

Suspended designated parking places

56. For self-evident reasons clause 51 amends section 14B by making it an offence to leave a vehicle in such places.

Emergency traffic signs

57. On road-safety grounds clause 52 regularises the placement of such signs when explosives are being used in a quarry such as that operated by the Department. Provision is also taken to prescribe other circumstances in which such signs may be used.

Defacement of traffic signs, etc

58. For road-safety or environmental reasons clause 53 makes it an offence to deface traffic signs or other street furniture.

Speeding

59. Despite increasing the range of penalty points for the offence, as prescribed in the Road Traffic and Highways (Miscellaneous Amendments) Act 2012, speeding remains a problem. Accordingly clause 65 increases the maximum fine from £1,000 to £3,000.

60. Clause 54 goes further by doubling the maximum fine that would normally be imposed, subject to a limit of £5,000, for speeding in certain areas where it is particularly dangerous, namely residential or road works areas or school zones. The provision is preceded by like provision made in a number of states in the USA.

Misuse of a disabled person's badge

61. As a deterrent clause 57 inserts a new section 28A making it an offence wrongly to use a disabled person's badge when parking a vehicle in circumstances where a disabled person's parking concession would be available. Such an offence is in addition to that of contravening a parking prohibition or restriction that applies to persons who are not disabled.

Parking controllers

62. Clause 58 substitutes a new section 33A that more flexibly transfers the functions of a parking controller from being specified in the Act to being specified in an order subject to Tynwald approval — the same procedure as applies to traffic wardens. More flexible provision is also made by enabling the Department to employ as parking controllers employees of an employer and to delegate its powers of appointment to local authorities.

Amendment of Schedules 5 and 5A

63. In view of the complexity of Schedules 5 and 5A clause 61 enables regulations to be made amending them subject to Tynwald approval.

Procedure to be followed when making temporary notices or traffic regulation orders, etc

64. Clauses 63 and 64 prescribe procedural arrangements whose amendment, if improvements are considered desirable, will be able to be effected fairly swiftly by regulations requiring Tynwald approval instead of otherwise waiting much longer till a further Bill becomes available.

Fixed penalty offences

65. Clause 66 prescribes a small number of new fixed penalty offences that are in keeping with those approved by Tynwald in the Road Traffic Regulation (Fixed Penalty Offences) Order 2013.

Amendment of the Local Government (Miscellaneous Provisions) Act 1984

66. Part I of this Act deals with the removal and disposal of abandoned or illegally parked vehicles.

Failure to remove an illegally parked vehicle when required by a constable to do so

67. The maximum fine on conviction for this offence was set at £1,000 by section 1 of the Criminal Justice (Penalties, etc.) Act 1993. In the intervening period, according to the Bank of England's inflation calculator, the value of the pound has depreciated by some 45% so that today £1,800 equates to the figure set in 1993. Accordingly clause 70 restores the real value of the fine plus a margin for inflation in future by prescribing a maximum amount of £2,000.

Removal of vehicles causing offence

68. Clause 71 inserts a new section 3A, which addresses the problem of vehicles left on a road or in a public place that are in such a condition that their presence there makes them offensive to the public. If a complaint is made to the Department, a local authority or the police, and if they are of opinion that a vehicle has remained parked in its location in such a condition for at least 28 days, they may remove it, but only after they have affixed a notice to the vehicle giving the owner or person in charge of it at least 14 days' grace in which to remove the vehicle.

Disposal etc of vehicles

69. Clause 73 substitutes four new sections for sections 5 to 8. Apart from making interpretive provision, they deal with the retention, release and disposal of vehicles that have been removed, whether under the new section 3A or under other existing provisions relating to the removal of abandoned or illegally parked vehicles. For consistency they adopt procedures that are analogous to those set out in new section 47AB as inserted in the Road Traffic Act 1985, requiring, as they do, the release of vehicles to be dependent on the payment of the costs of removal and retention, together with any outstanding fines or vehicle duty. As there, if payment is not made within 35 days, vehicles may be disposed of and the proceeds used for that purpose.

70. Clause 74 concludes by repealing Schedule 1, thereby enabling the removal of vehicles if any statutory prohibition or restriction is being contravened.

Feedback to the Consultation

The draft Bill attached has been prepared for the purpose of consultation. Further refinement of the layout and content may be undertaken in light of the responses to the consultation.

Information provided in response to the consultation will be dealt with in accordance with the access to information regimes. These are primarily the Guidance on the Code of Practice on Consultation and the Code of Practice on Access to Information.

It is also important to take into consideration that making a representation does not necessarily mean that the Department will make a change to legislation.

If you wish to submit your views, or there is some point of clarification you would like to receive, you are invited to respond:

By email to: doiconsultation@gov.im

Or in writing to:

Chris Hannon, Project Coordinator, Highway Services Division, Department of Infrastructure, Sea Terminal, Douglas IM1 2RF

The closing date for consideration of responses is 19 February 2016

Unless specifically requested otherwise, any responses received may be published either in part or in their entirety, together with the name of the person or body which submitted the response. If you are responding on behalf of a group please make clear your position. It would be helpful, when giving your feedback to make specific reference to the number and title of the specific provision set out in the draft Bill.

The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation. In any consultation the responses received do not guarantee that changes will be made to what has been proposed.

IMPACT ASSESSMENT

DEPARTMENT: Infrastructure (DoI)		
IMPACT ASSESSMENT OF: The Road Traffic Legislation (Amendment) Bill 2016		
Stage: Public consultation	Version: 1	Date: 15 January 2016
Related Publications: The DoI Service Delivery Plan 2013-2016		
Responsible Officer: Jeffrey Robinson, Director of Highway Services		
Email Address: doiconsultation@gov.im		Telephone: 686655

SUMMARY: INTERVENTION AND OPTIONS
<p>Briefly summarise the proposal’s purpose and the intended effects</p> <ol style="list-style-type: none"> (1) To regulate the use of horse-drawn vehicles on roads, (2) To update the Island's law on driving under the influence of drugs, (3) To lower the legal alcohol limit for drivers to that obtaining in Scotland and most of Europe, (4) To provide for the better enforcement of motoring fines and vehicle duty, (5) To provide for driving disqualification where vehicles are used for the purposes of crime, (6) To facilitate the use of the Motor Insurers' Database in furtherance of the detection of crime, (7) To cater for the declaration of prospective relevant disabilities when applying for a driving licence, (8) To make it an offence to make a false declaration for the purpose of obtaining a driving licence, being an offence triable either summarily or on indictment depending on the gravity of the contravention, (9) To require applications to renew a licence to drive large passenger or heavy goods vehicles or combinations to be accompanied by a medical certificate that the applicant is still fit to drive them, (10) To require applicants for a licence who are aged 75 or more to have passed a prescribed eyesight test, (11) To provide for the regulation principally of overseas caravans coming to the Island, (12) To make it an offence to deface traffic signs or other street furniture, (13) To make it an offence wrongly to use a disabled person's badge, (14) To cater for the removal from roads or public places of vehicles in such a condition that their presence there makes them offensive to the public,

- (15) To increase the penalties for speeding, which remains a problem, and
- (16) To make other amendments of a lesser nature with respect to the regulation of vehicles and drivers.

What are the options that have been considered?

Involving, as they do, amendments of primary legislation, the proposals can be achieved only by further primary legislation. The options are basically to do nothing, in which case the public interest would be compromised, or to act by way of the Bill.

Link to Government Strategic Plan

To promote a safe environment, ensure the effective enforcement of the criminal law, and reduce the incidence of crime

Link to Department/Statutory Board/Office Aims and Objectives

To provide for the better regulation of vehicles and drivers and to pursue actively the outstanding payment of motoring fines and vehicle duty

Responsible Departmental Member

Mr J Houghton MHK

Ministerial sign off

I have read the Impact Assessment and I am satisfied that the balance between the benefit and any costs is the right one in the circumstances.

Signed by the Responsible Minister

Phil Gawne MHK

Date: 14 January 2016

SUMMARY: ANALYSIS AND EVIDENCE

IMPACT OF PROPOSAL

Resource Issues - Financial (including manpower)

Statement

By and large the provisions of the Bill are cost-neutral, being either self-financing through the recovery of costs or being administered by existing personnel as part of their ongoing responsibilities with no corresponding increase in budgetary provision. There will, however be some additional costs in purchasing drug-testing devices, whereas the ongoing costs of publicising

road traffic orders and notices will be markedly reduced.

Likely Financial Costs

One Off: As stated above.

Average Annual (excluding one off): As stated above.

Likely Financial Benefits

One Off and Average Annual (excluding one off):

At present unquantifiable due to unforeseeable circumstances, but in the longer term financial benefits will, for example, accrue from the impact of the proposals on unsafe driving, the consequential saving in medical costs arising from accidents, the better enforcement of motoring fines and vehicle duty, and the deterrent effect of better detecting vehicle crime.

If the proposal introduces provisions that will require another Department, Board, Office or Body to take on additional work or responsibility please ensure that they have been consulted early on in your considerations. Please provide a brief statement as to who they are and the consultation that has taken place.

The Department of Home Affairs, local authorities and the police, but it has been thought more advisable to leave wider consultation to the present exercise so that comments may be based on worked up proposals.

Are there any costs or benefits that are not financial i.e. social?

The principle benefits will arise from a reduction of the personal and societal impact of accidents caused by drivers under the impact of drugs or alcohol and other of driving standards addressed in the proposals. Further benefits arise, inter alia, from measures designed to reduce antisocial behaviour such as the defacement of traffic signs and other street furniture and the wrongful use of disabled persons' badges.

Which business sectors/organisations will be impacted, if any, and has any direct consultation taken place?

Vehicle operators will be marginally affected if the Bill's enabling powers are used at a later date to require drivers of buses, coaches and lorries to undergo 5-yearly refresher courses on the driving of their vehicles. Consultation has been left to this exercise for the reason stated above. The proposed changes to the blood alcohol limit are likely to impact upon the licensed trade. The extent of this impact on the Island is difficult to quantify but will be reviewed following consideration of the responses to this consultation.

Does the proposal comply with privacy law? Please provide a brief statement as to any issue of privacy or security of personal information.

Yes, so no statement is necessary.

Has Treasury Concurrence been given for the preferred option?

Date of Treasury Concurrence: Not applicable.

Key Assumptions/Sensitivities/Risks

A key assumption is that it is in the public interest for the Bill to cater for those matters which it addresses.

Approximate date for legislation to be implemented if known

Royal assent is anticipated later this year with the bulk of the Bill being brought into force by order shortly afterwards.

SUMMARY: CONSULTATION

Consultation in line with Government standard consultation process? Yes.

Date

1st Consultation: 15 January 2016. **2nd Consultation:**

Summary of Responses:

Responses have yet to arise as a result of this consultation.

EVIDENCE BASE

DoI has no further evidence etc to be set out other than that presented in an orderly way in this impact assessment and the accompanying letter. When read together, they are self-explanatory.