

7. Road Traffic Legislation (Amendment) Bill 2016 – First Reading approved

Mr Corkish to move:

That the Road Traffic Legislation (Amendment) Bill 2016 be read a first time.

The President: Item 7, the Road Traffic Legislation (Amendment) Bill 2016. I call on the Hon. Member, Mr Corkish.

Mr Corkish: Thank you, Madam President. I think we should be offered gin and tonic after all this! I will just have some water. *(Interjection)*

The Road Traffic Legislation (Amendment) Bill 2016, I beg now be read for a first time.

Madam President, the Bill is a far-reaching affair which affects the law on road traffic and drivers in various ways. Of the Bill's principal provisions, the most weighty are those set out in part 2, dealing as they do with the amendment of the Road Traffic Act 1985.

This part has five key themes: first, to deal with the unsafe or irresponsible driving, whether it be drug-driving, using a motor vehicle for the purposes of crime or driving a vehicle on footways – that is to say, pavements; second, to lessen the overload on the courts by providing for the enforcement of fines compensation or vehicle duty through the seizure of motor vehicles; third, to improve the law relating to the construction and use of vehicles, for example, their use by disabled persons; fourth, to make extensive and material amendments to the law on driving licences and disqualification; and finally to facilitate the detection of crime, for example by providing on the one hand for the use of the Motor Insurers' Database, and by extending on the other the information-gathering powers of both the Police and the authorised vehicle examiners of the Department of Infrastructure.

I will now deal with those themes in that order.

Madam President, as far as the first is concerned, this part further addresses drug-driving, by enabling a constable to administer a preliminary drug test which will be used to test not only for drugs in general but specifically for controlled drugs above specified limits, the use of which when driving or attempting to drive, is now made an offence. A 'controlled drug' is one classified as A, B or C for the purposes of the Misuse of Drugs Act 1976.

As to using vehicles for the purposes of crime, a further deterrent is prescribed, empowering the courts to disqualify offenders.

The opportunity is then taken to clarify the law on using vehicles on footways, which as I have previously explained is the legislative term for pavements. At present it is an offence to 'drive' on them, but the reference solely to driving begs a question whether it also embraces 'riding' – for example, does one ride or drive a pedal cycle? A debateable point, but clearly one does not 'drive' a skateboard; one rides it.

Against this background, Hon. Members may agree that the law should be certain. At first glance, the public interest would appear best served if the use of vehicles on pavements were generally prohibited, yet there is a strong case for exemptions – for example, by permitting pedal cyclists to use clearly demarcated areas on wider pavements, particular where using the adjoining carriageways would be hazardous. So power is taken to provide by order for exemptions of this kind.

All in all, the Department is satisfied that the right balance has been struck, and in this respect, I would like, if I may, to assure Council that the present exemption for mobility scooters will not be affected.

As regards the second theme, lessening the overload on the courts, this part goes on to provide for the seizure of motor vehicles in cases where the courts have imposed fines or ordered the payment of compensation, and where either remain unpaid. The powers of seizure are also extended to the non-payment of vehicle duty. If the fines, compensation or duty then remain

outstanding, the vehicles may be disposed of and proceeds used for or towards payment. What the provisions do is provide a means of enforcement without further recourse to the courts.

With respect to the third theme, the construction and use of vehicles, provision is made for their better testing and inspection under the related regulations, confirming of power to make such regulations as to the use of vehicles by disabled persons, a draft of the regulations having been circulated for public comment.

The facilitation of amendments to the law on the carriage of dangerous goods and the enabling of authorised vehicle examiners to prohibit the driving of unfit public passenger vehicles, all of which we consider to serve the better the public interest.

The fourth theme, improvements to the law on drivers' licences and disqualification, begins by embracing three new and important proposals with respect to applications for licences. First, besides having to declare relevant disabilities as at present, applicants are required to declare prospective relevant disabilities, being ones which by virtue of their intermittent or progressive nature or otherwise may become relevant disabilities in the course of time. Second, applications to renew licences to drive large passenger or heavy goods vehicles must be accompanied by a certificate from a medical practitioner that the applicant is still fit to drive them. Third, applicants for the licence who are aged 75 or over must have passed a prescribed eye-sight test.

For its part, the Department is required 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; and to revoke the licence of a driver who, suspected of driving with defective eye-sight, fails the eye-sight test.

As a deterrent to unsafe driving, a series of new offences is then prescribed, namely: making a false declaration to obtain a licence; driving a motor vehicle contrary to any limitation or condition included in a licence; contravening the prescribed restrictions relating to learner drivers; and failing to return forthwith to the Department when required to do so a revoked licence or one requiring amendment.

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 whereas at present in the Island the law was found inadequate to bring a prosecution, the offence of making a false declaration is made triable either way, in lesser cases, summarily where the maximum fine of £5,000 and in graver cases on indictment, with penalties of 14 years' custody or an unlimited fine or both.

Madam President, as far as disqualification is concerned, the interests of road safety have given rise to a provision reducing, from 12 or over to six 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.

As to the final theme, the detection of crime, this part implements two new proposals: first, it effectively requires insurers to notify the Great Britain Motor Insurers' Bureau of policy particulars, so that they may be recorded in its database; and second, it caters for the use of the database by the Department, the Police and local authorities, in accordance with regulations to be approved by Tynwald. In this way, owners of motor vehicles will be easily and swiftly identified, and information, for example about insurance or non-insurance, just as easily ascertained.

Lastly, the circumstance in which the furnishing of information as required, for example, in the case of accidents, is extended.

We turn now to the rest of the Bill, which makes amendments mostly of a lesser nature, to the Road Traffic Regulation Act 1985 and the Local Government (Miscellaneous Provisions) Act 1984. The amendments of the Road Traffic Regulation Act effected by part 3 include: greater penalties for speeding, particularly in residential or roadworks areas or school zones; the regulation of 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 removal of the

bureaucratic procedures involved, on the one hand, in extending the validity of temporary notices regulating traffic, and on the other in temporarily relocating the school crossings; the extension of the circumstances in which emergency traffic signs may be used, for example, when blasting operations are taking place at a quarry, making it an offence on the one hand to deface traffic signs or other street furniture, and on the other to misuse a disabled person's badge; and finally, to prescribe the small number of fixed penalty offences, almost all relating to parking, being offences in keeping with the Road Traffic Regulation (Fixed Penalty Offences) Order 2013.

The amendments of the Local Government (Miscellaneous Provisions) Act almost entirely affect part 1, which deals with the removal and disposal of abandoned or illegally parked vehicles affected by part 4 of the Bill, and they include: an increase, broadly in line with inflation of the maximum fine on conviction of failing to remove an illegally parked vehicle when required by a constable to do so; power to remove from a road or public place any vehicle that is in such a condition that its presence there makes it offensive to the public, but only after 28 days have elapsed, and only after 14 days' grace is given, by notice affixed to the vehicle.

And finally to prescribe procedural provisions relating to detention, release and disposal of vehicles under the Act, being provisions that for consistency are broadly in line with those for the enforcement of fines which I have previously addressed.

Madam President, overall, I am convinced that this Bill will make material contribution to the law on road traffic and drivers, and as such I commend it to Council.

Madam President, I beg to move that the Road Traffic Legislation (Amendment) Bill 2016 be now read a first time.

The President: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

I wonder if the mover could explain why this Bill has been introduced in to this place first.

Speaking to colleagues from the other place, they are very concerned about the content of it, and I just wonder what the motives were for the Department or the Council of Ministers choosing to do so.

Some of the provisions in here have been hanging around for quite a while, and I think some of them are quite draconian, in the way they will no doubt operate. So at this point, obviously we will go through it. One way of course to test it would be if it all went through suspension of Standing Orders and all three Readings were done today, it would go to the other place, and then be tested.

I wonder whether it is because the pending dissolution before the election, but maybe the mover could explain exactly why they have opted to bring this Bill forward under this process, as I would like to know the motives of the Department.

The President: The Hon. Member, Mr Cretney.

Mr Cretney: Just on one specific point about ... it is described in the proposed legislation as 'overseas caravans'. I just wonder how overseas caravans are differentiated from those which exist in some numbers on the Island. You only have to go round any housing estate, and you will find caravans in them, and I just wonder. There were representations made in the past that local owners who owned those felt that they were being restricted because, I think, the policy previously was that the Department of Infrastructure were to allow caravans in only for motorsport events.

I hope that is not still the case in this Bill, (*Interjection by Mr Anderson*) because it is not clear. Obviously, it would be subject to order which would be put before Tynwald, but the Department must have some idea what they are thinking about in that regard. I would just like the Member to clarify that somewhat.

The President: The Lord Bishop.

The Lord Bishop: Thank you, Madam President.

I would be very grateful if the mover could explain what the reasoning is behind not having regular tests of motor vehicles, such as they have in the United Kingdom.

A Member: MOT.

The President: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

Very supportive of this particular chunk of legislation. I did participate in the consultation on its inception, especially with the issues on abandoned vehicles which have blighted my former constituency no end, from time to time, and as with dilapidated properties at that time, there was quite often a lot of arm throwing up in the air by officials when you wanted the issue addressed. So I think this bolsters it up really well.

I do not think it is as draconian as it could be in certain circumstances, Eaghtyrane, given the standard of driving at times on the Isle of Man, especially with one clause, which the Hon. Member read out, which was trying to address with increased fines. I would ask that his Department – who I know are listening – address issues such as the increasing and dangerous practice now of shooting red lights and to examine ways of how other countries deal with this. I really do feel we need that implemented here. How there have not been more crashes and fatalities, I just do not know, especially when the lights are changing to amber, Eaghtyrane. Somebody will chance it and then two more will follow through. A classic example is Broadway at a quarter to nine in the morning, when traffic is coming down Victoria Road onto Broadway. You get six or seven cars shooting a red light following, chasing the orange.

Roundabout behaviour: I was always taught to drive whereby if I was actually on the roundabout, I did have the right of way, no matter what direction other traffic was coming. However, that rule seems to have changed now, and again there are some very dangerous practices being produced with regard to that – near misses and crashes that I have seen before. I really do think you need to bring something else forward to address this increasing problem.

It was not so prevalent a few years ago, but it is more and more, lately, as people become more aggressive in their driving practices.

So I will leave it at that, Eaghtyrane.

The President: The mover to reply.

Mr Corkish: Thank you, Madam President.

Mr Turner: he has doubts on the introduction of the Bill in this place. Of course, this Chamber is entitled and able to introduce Bills, as has been seen already today. It also gives life to the Bill before the General Election, where if it was introduced in a different place, to be honest, it would be lost.

There are two former Members – two former Ministers – of the Department here, and ex-Members of the Department who will know that there has been a long gestation period for this Bill. (**Mr Turner:** For a reason.) It is high time.

And I would jump to Mr Henderson's comments that this Bill perhaps does not go far enough, despite some Members thinking it is, in their words, draconian.

Mr Cretney mentions overseas caravans, different from Island-based, and this provision will allow caravans to travel to campsites by the best designated route. This is something which appeals to me greatly, because I was the person who introduced this in another place, looking ahead, because at some point we could be overrun with caravans and all the problems that could come; on the other hand we could invite caravans here to designated camps and make money out of them. But anyway, that is another part, Madam President.

So the overseas caravans are different from the Island-based and residents' caravans are yet to be addressed, when regulations are put out to public consultation.

My Lord Bishop: why no MOT, was the phrase I think that was missing from that. A consultation three or four years ago, that was brought to the House and there are 75% of people who were then against the introduction of those proposals. (**A Member:** Turkeys!) I remember it well. Nevertheless, that is the reason, in honesty, Bishop.

Again, going back to Mr Henderson, I welcome his remarks, which in his own words, he said 'bolstered up' regulations for best practice on our roads. In fact he was looking for increased fines and I too can join with him in agreeing that some of the driving practice on the Isle of Man is dreadful. In fact, in some I find it getting worse and worse. I could – I will not, for the sake of *Hansard* – define the breed of driver that I think are most at cause here, (**Two Members:** Go on!) but I have been cut up so many times – more so than ever before – people chasing deadlines, getting to work early, looking for a parking space perhaps. Mr Henderson mentions a particular spot, Broadway, and I mentioned this very fact to the Department, and I am very glad to say that whilst what I wanted was not totally introduced, they did bring forward a halt sign from the Victoria Road end, so that drivers coming down Victoria Road can see the traffic mounting up. Because I have been cut up so many times, the traffic has been brought to a standstill.

So yes, the Bill could go further, could be more draconian. However, it is introduced in the best light of prescribing better conditions or better legislation for road traffic here on-Island, the roads of which are becoming more and more crammed with motor cars – and fast motor cars.

So Madam President, with that, I beg to move.

The President: The motion is that the Bill be read a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes consideration of our Order Paper today, Hon. Members. Council will now adjourn until Tuesday, 3rd May in this Chamber.

Thank you.

The Council adjourned at 3.57 p.m.