

## **1. Road Traffic (Amendment) Bill 2014 – Second Reading approved**

Mr Turner to move:

*That the Road Traffic (Amendment) Bill 2014 be read a second time.*

**The President:** Hon. Members, we continue with our consideration of the Road Traffic (Amendment) Bill.

I call on Mr Turner to take the Second Reading.

**Mr Turner:** Thank you, Madam President.

The main purpose of this short Bill is to make some minor amendments to schedule 3 of the Road Traffic Act 1985, and in particular the provisions that govern the appearance of a driving licence. At the moment the current licence must be in a form consisting of the two parts: that is the plastic identity card and the paper part which includes various other bits of information.

The new provision will allow the Department to produce the licence in a form that it thinks appropriate and which will cater for any possible changes to its appearance. So it is an enabling power rather than being prescriptive as to the form the licence will take. The new provisions also allow for the maintenance by the Department of an electronic database containing information about the driver licence.

The Bill also contains a minor amendment to provisions in section 25 of the Building Control Act 1991, so that the powers currently exercisable by a local authority under sections 22 and 23 of the 1991 Act, which allows local authorities to take action with regard to buildings in a dangerous condition, may also be exercisable by the Department in its capacity as the Highway Authority. The reinsertion of section 25(1) will enable the Highways Division to take action in cases where dangerous buildings or structures may also pose a danger to people using the highway.

As I explained, Madam President, at the First Reading of this Bill these powers were inadvertently removed during the restructuring of Government in April 2010. The history of this Bill does go back quite some time and indeed has been subject to various scrutinies within the Department and also from other interested parties. I think it is sensible to look at the form of the licence: there is a cost in producing it, but also the extra paper part is not necessary in this modern age with the way the electronic databases can be set up.

I think this is a good piece of legislation: it is not contentious, it is more of a housekeeping exercise, but as we have seen from other Bills in the past we have been overly prescriptive in certain cases; do we really need in primary legislation to be so prescriptive of how, for example, a driving licence is? This amendment will enable the Department to keep track of any future changes that may come in.

What the Department has in mind at the moment is producing a single card and effectively abolishing the paper part of the licence. That is what is in mind as the intention at the moment, but who knows what the future will bring; and, of course, this Bill will enable the Department to move with the times as new things come in.

It is important that we fit in with the rest of Europe and what other countries in the world are doing because these licences are, in effect, international documents. I am sure we all use them when we have rental cars abroad, so it is important the form is one that is acceptable everywhere.

So I hope Members will support this, here at the Second Reading, and then we can move on to the clauses. So, for now, I beg to move the Bill be read a second time.

**Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

I will just make the comment that I believe this is a good exercise in modernisation and bringing us up to date.

**The President:** I do not think there is anything to reply to, just a comment. Do you want to say anything, Mr Turner?

**Mr Turner:** No. I thank Members for their support both last week and this week as well. So, with that, I beg to move.

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

### **Road Traffic (Amendment) Bill 2014 – Clauses considered**

**The President:** We will take the clauses. Would you like to take clauses 1, 2 and 3 together?

**Mr Turner:** Thank you, Madam President.

Clause 1 is the short title of the Act: the Road Traffic (Amendment) Act.

Clause 2 is the commencement. The Act, other than section 1, will come into operation on such days as the Department of Infrastructure may by order appoint. An order under subsection (1) would include consequential, incidental, supplemental, transitional and transitory provisions.

Clause 3 is the expiry clause that we have become familiar with now. Once the Amendment Act has done its job, this particular piece will expire and the provisions will continue.

So I beg to move clauses 1, 2 and 3 stand part of the Bill.

**Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** If no one else wishes to speak? Mr Downie.

**Mr Downie:** Thank you, Madam President.

*'The Act comes into operation on such day or days as the Department of Infrastructure may by order appoint.'*

Does the Department currently have a timeframe to introduce the new licensing regime? The reason I have asked that is because it is important that, if there is going to be a Europe-wide change – and other countries have already started on this road – we are actually programmed into this; and the proper finance, funding, the ordering of the equipment and so on is in place. I would just like confirmation from the mover that we are not going to finish up in the same position we have just been in with the buses where we have gone electronically – and then we find all the data is being shared with other people unintentionally.

So what I would like to hear is what the programme is likely to be and confirmation that, if we are going to go on to a card-based system and do away with the paper, it will be a system that it will be virtually impossible to wipe. Sometimes, if you have your wallet and your mobile phone in your pocket, there are occasions when the signal from the phone can wipe the card – and I would hate to be in a situation where I was abroad and find, when being stopped somewhere, there is no data on my card, because I always bring the paper with me anyway.

And are we going to try, where possible, to embrace internationally-accepted standards for these licences so that there is a commonality right throughout Europe, as it were?

**The President:** Ah, coming in late, Mr Wild.

**Mr Wild:** Thank you, Madam President.

I just want to say that I believe Mr Downie makes a very fair point, because on numerous occasions I have managed to wipe my hotel card with my mobile phone. So I think I agree entirely with Mr Downie that has to be taken into consideration.

**The President:** The mover to reply.

**Mr Turner:** Thank you, Madam President; and I thank Members because I think the points they have raised are important.

The situation that the Hon. Member, Mr Downie, mentioned with regard to the bus cards was unfortunate and it was a hole in the system. I think Members will be aware, from the explanation the Department gave, that in that particular case it was one of those sets of circumstances where the right – or the wrong, depending on which way you look at it – data was put into a search and all the ducks were in a row and the information came out. They have looked at that and they are dealing with it.

I think we should remember we already operate a substantial driving licence database anyway, which is there and is secure. The difference with the bus cards is that they were being applied for by members of the public online. It was a public-facing system, whereas the driving licence system is very much a confidential system that only has access to certain agencies: the Department, obviously, hosting it, the Police, and outside agencies who can request information through the correct channels as long as they have the necessary vires to do so. So there is difference in the way that the driving licence databases are held. So I hope that gives the Hon. Members some comfort.

I am not quite sure whether it is a brand-new system or whether it is an adaptation of the existing one as such but, at the moment, what the Department is focusing on is the form in which the licence is produced. One expects that the existing data for court penalties and all the rest of it, is already on that database so this merely enables the Department to change the form of the licence and keep track of where it is going in the future.

The timeframe, basically, is as soon as the Department can implement it – so once this legislation is through, if Hon. Members support it, the Department will continue its work. There has been some work done already, so the Department does have in mind what it wants to do; but, obviously, we are at a stage where we are concentrating on getting the powers to continue that work.

So I thank Hon. Members for their questions and I beg to move clauses 1, 2 and 3.

Thank you.

**The President:** The motion is that clauses 1, 2 and 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

**Mr Turner:** Clause 4 is the amendment: the clause amends the provisions relating to the granting of driving licences as specified in schedule 3 of the Road Traffic Act 1985.

The current driving licence, as I said, is in two parts: the plastic card, which is the size of a credit card, and the sheet of paper known as the ‘counterpart’. The Bill will enable the Department to do away with the counterpart and rely on the card only, although the latter will contain, or will be logically associated with, all the information presently contained in the counterpart, as well as currently on the card.

The new form of licence will mirror that in use throughout the European Union. In this way it will facilitate road travel abroad by Manx residents, whose licences will be in a format familiar to overseas police and officials.

At present the licence consists partly of a printed card, which is then laminated to make it more durable. By contrast, the proposed licence will consist of an engraved card providing a less expensive alternative, which is both more hard-wearing and resistant to tampering.

There were queries raised in the other place, relating to the provision of who may obtain information – and I think this builds on what was asked just before. The new provision will not allow open access to the database by anyone, it is merely clarifying the type of applicants who may be considered suitable. So there is no mention of opening the database to European countries. However, obviously, in very serious criminal matters there may well be powers available there which enable law enforcement agencies to seek information. But, as a rule, that is the current position.

So I think that explains the amendment and in essence what it does, so I beg to move clause 4 stands part of the Bill.

**Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Madam President.

I am happy to support this. I just have one question about the database and the new card.

Will it have the facility to include insurance details of the vehicle? I think this is a serious point that needs to be considered and I think up to 10% of drivers are driving uninsured. If there was a facility on the database to register insurance details of the vehicle this would be a great step forward and would help the Police, etc, checking the card.

Thank you, Madam President.

**The President:** The Hon. Member, Mr Braidwood.

**Mr Braidwood:** Thank you, Madam President.

Just following on from my hon. colleague in Council, Mr Crowe: I think the only way that insurance can be detected on a vehicle is if they have number plate recognition and then they have automatic access to the insurance database – that is the only way they could possibly check.

The question I have, Madam President, is: at the moment with the driving licence – which, as the hon. mover of the Bill, Mr Turner, has said, is the card which is the same size as a credit card and the counterpart which is the pink sheet – anybody renewing their licence who is under, say 65, will be able to get a licence for 10 years. Is there any provision at all if those people are having a problem if they go to Europe, for the licence to be exchanged at no cost for the new type of licence?

**The President:** The Lord Bishop.

**The Lord Bishop:** Thank you, Madam President.

I think we may be risking confusing vehicle licensing which relates to insurance with driving licences.

The question I have is: in some parts of Europe they require you to have driving licence card with the Europa flag on it. I presume that, if we follow the example of the present driving licence, the plastic driving card, we will not have the Europa flag on it. I would be interested to know how we get round that problem.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.

I note that the mover states that the new licence is a less expensive alternative to the current licence. So, despite the alleged parlous state of the finances in the Department, does that mean we

will be getting cheaper driving licences in future? (*Laughter and interjections*) Will the cost be reduced?

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I think my question, basically, follows on from Mr Braidwood's and that is the methodology that is going to be used for moving people over from the old licences to the new one.

I had a new licence last year which takes me up to age 75 – which is many years away. (*Laughter*) I just wondered whether there is going to be a rolling calling-in of licences, because I think if you are 40 your licence is for a longer period –

**Mr Braidwood:** Ten years.

**Mr Coleman:** Okay, well mine is for less.

I just wondered does that mean that you will not be totally onto the new system for a period of 10 years? So it is the mechanism of how this happens that I am interested in.

Thank you.

**The President:** The mover to reply.

**Mr Turner:** Thank you, Madam President.

I can give a very typically political answer here and say that this is an enabling provision and it gives provisions for transitional arrangements – but I am not going to dishonour my colleagues as it is a very fair point. I think that what you have to do is expect that there is going to be a transitional arrangement in place. It will replace the old one when renewed.

This leads into comments about what happens when we go to Europe, or indeed other countries. The agreement between countries, of these documents, are set up in various conventions and agreements so, once we decide the form that our licence will be, then the authorities in those countries will be notified of the form of our driving licences. Therefore, no matter where in the world you travel to, the correct form will be requested even to the point of the crossover period where both types will be in circulation. That is the point, I think, Mr Coleman was making.

I think Mr Braidwood was asking about exchanging: there will be no need to exchange your current licence for the new form. I do not suppose there is anything stopping you buying a new one, paying for it; but I do not really see the point in that, as both will be valid documents.

Mr Butt will be sad to hear, as am I, that there will be no cost reductions at the moment – but we will work on that.

There will not be a European flag on the licences, as we are not in the European Union; but, as I explained, our licence is currently accepted by all the various countries. The Lord Bishop is shaking his head! Well, it is supposed to be accepted. The various authorities are made aware that it is a legal document; if individual countries or officers in those countries... We do hear stories of officials not accepting Manx documents, we have had cases of passports not being accepted in various parts of the world. We cannot account for that; but the fact is that the appropriate authorities in those jurisdictions have been informed of our formats and agreed them. If individual officials decide not to accept them, then that is something that really is outside our control unfortunately. If there are cases where we become aware of it, please let the Department know and we will endeavour to open up some channels of communication with those countries. I think that is all we can do. So there will not be any exchange.

The insurance: the Lord Bishop is quite right, this is about driving licences. You do not need insurance to hold a driving licence, the insurance is for you to be insured to drive the vehicle. The best way for that would be to look at some system with regard to the vehicle registration system and

database, (*Interjections*) which Mr Braidwood did mention. It is happening in other countries now and it is something I know the Department is keen to bring in. But, as for driving licences, anybody who passes the test can hold a driving licence. They may not even own a car so there would not be any need to have insurance there; they may work for a company and they only drive the company vehicles, for example.

I hope that answers this particular clause.

I beg to move clause 4 stands part of the Bill.

**The President:** The motion is that clause 4 do stand part of the Bill. Those in favour, please say aye; against, no.

Oh, I am sorry, have I done a reply before I got everybody in? Mr Butt, you spoke. (*Interjections*) Yes, okay, I need to wake up, I am sorry. (*Laughter*)

Clause 5... well, let me finish that. Would those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Mr Turner:** Thank you, Madam President.

Clause 5. This amends section 25 of the Building Control Act by reinstating provisions that were inadvertently repealed during the restructure of Government in 2010. These provisions will enable the Department of Infrastructure, as the highway authority, to exercise certain enforcement powers which are already exercisable by DEFA and local authorities, if buildings or structures are in such a condition that they represent a danger to the public on roads.

I beg to move clause 5 do stand part of the Bill.

**Mr Downie:** I beg to second, Madam President, and reserve my remarks.

**The President:** Does any other Member wish to speak? If not, Mr Downie.

**Mr Downie:** An interesting section this, the way it was lost out of the transitional period and now is being picked up again; but I can support the Department a hundred percent on this because there are circumstances that arise.

One of the things that I would like to know, whether this section extends to... We are repeatedly seeing, because of lack of maintenance, there are trees and other objects now which are becoming dangerous. I drive past a tree, some days on a road, that is dead – and it has been dead for a number of years. I am just wondering how long it is going to be before it falls into the road.

I wonder whether that can be included in this particular section, or are we just applying this to bricks and mortar, as it were? Is there provision within the legislation at the present time to deal with trees that might be becoming dangerous?

I know one of my pet hates is: I come out on to Alexander Drive and Woodbourne Road every day, and the hedge there is just getting bigger and bigger. You make a comment to the authorities, 'Yes, we will advise the owner.' But nothing ever seems to happen. So the traffic is creeping further and further out which, to me, is a hazard. But I am more concerned about things like trees rather than structures. I think that is an area that, if it is not included, we should be including that now where the Department can serve notice on a landowner – or actually step in if there is a query and deal with it themselves.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

I will just make the observation, in support of Mr Downie that, certainly in Guernsey they have – and I cannot remember the name, it is a French-sounding name – an official in each parish (**Mr Braidwood:** A stick!) who has a stick, and there is a set of dimensions for hedges and rules relating to

dead trees. The owners of the properties are made to trim the hedges back to a certain specification and remove dangerous trees.

**Mr Braidwood:** They are fined, as well.

**The President:** The mover to reply.

**Mr Turner:** Thank you, Madam President.

This particular clause relates to the Building Control Act so it is designed to deal with structures and buildings. Hedges – which I have just had confirmed by the Department – are subject to other legislation. It can be reported to the Department on 686665 – which I have to say I have read, it is not off the top of my head – (*Laughter*) where there will be an initial investigation.

The local authorities... I know in our neck of the woods, the local commissioners are always putting in their newsletter reminding residents to keep their hedges trimmed – most people, I think, ignore it. And it is a problem. I know Mr Downie has mentioned a place near where he lives and we had a similar problem in Glen Vine when coming out of the Glen Vine road onto the TT course. There was a hedge and you literally had to creep out, almost... you were certainly halfway across one of the carriageways to be able to see up the road. There was actually a fatality there – I do not know whether that was resulting from the hedge but there was, at that junction. It was a real bone of contention with everybody. Some new owners moved into the cottage and got rid of the hedge and put a fence up, and it is a lot clearer now – you can see right up the road.

So, it is a problem and there are powers. How often these powers are actually used to force somebody to cut back the hedges, I do not know. Hon. Members will be aware of the Department having to look at hedge-trimming in areas and has put some of those duties out to local authorities. Really it is the responsibility of the landowners to keep their hedges trimmed, and this is a service that has been going on for many years whilst we have had the budget; now the budget obviously is no longer there, and we are appealing for everybody to do their bit in keeping the hedges neatly trimmed. Not only does it make the place look smarter and tidier but there is also an important safety issue. But, as we said, there are existing powers there that can be dealt with.

The Department needs to know about these problems, so I would urge Hon. Members – and indeed anybody who may be reading the *Hansard* of this – that, if they have issues, contact the Department who will do their best to help. And also in answer to Mr Wild: yes, the owners are actually responsible for that.

So, I beg to move clause 5 stands part of the Bill.

**The President:** The motion is that clause 5 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.