

**4.3. Road Traffic Legislation (Amendment) Bill 2020 –
Second Reading approved**

Mr Harmer to move:

That the Road Traffic Legislation (Amendment) Bill 2020 be read a second time.

The Speaker: We turn to Item 4.3, Road Traffic Legislation (Amendment) Bill 2020 and I call on Mr Harmer to move.

Mr Harmer: Thank you, Mr Speaker.

1500 This Bill, the Road Traffic Legislation (Amendment) Bill 2020, affects the laws on road traffic and drivers in various ways.

Of the Bill's principal provisions, the most weighty are those set out in Part 2 and provide for an amendment to the Road Traffic Act 1985. This Part has five key themes: first, to deal with unsafe or irresponsible driving, whether it be drug driving, using a motor vehicle for the purposes of crime, or riding a vehicle on footways – that is to say pavements; second, to lessen the load on the courts by providing for 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.

1505 I will now deal with those themes in that order. 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 specifically for certain drugs above specified limits, the use of which when driving or attempting to drive is now made an offence.

1510 A Legislative Council Committee investigated this Bill in an earlier form, and on this particular item requested the proposals were amended to include a zero level for all psychoactive drugs that are not specifically recognised in the provisions. The United Kingdom's Department for Transport, on whose research these provisions are based, put in place an expert medical panel to investigate drugs and their effect on driving capability and to recommend levels at which different drugs caused driving impairment. The research conducted led to the production of the table of drugs and the recommended levels which are included within these provisions. In the panel's opinion, supporting evidence to provide levels at which 'legal high' drugs were considered safe to drive does not exist; but they did request that forensic testing be encouraged so that once reliable evidence is available that can be acted upon and changes could be introduced to their recommendations.

1515 Legal-high substances are already dealt with under the provisions of the Misuse of Drugs Act 1976 and the Psychoactive Substances Act 2016 (Application) Order 2016 when their use is detected in social environs. The provisions in this Bill are concerned with fitness to drive in the same way that drink-driving provisions vary from social drinking laws. The provisions in the Bill are the same as those in place in England and Wales and were introduced in Scotland on 21st October 2019. The provisions can be amended by a Tynwald approved order should any changes be identified.

1520 As to using vehicles for the purposes of crime a further deterrent is prescribed, empowering the courts to disqualify offenders.

1525 The opportunity is then taken to clarify the law on using vehicles on footways. At present it is an offence to 'drive' on them, but the reference solely to 'driving' begs the question whether it also embraces 'riding'. For example, does one ride or drive a pedal cycle? Against this background Hon. Members may agree that the law should be certain. At first glance, the public

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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 areas of pavements, particularly where using the adjoining carriageways would be hazardous. So the power is given in the Bill to provide by order for exemptions of this kind. All in
1545 all, I believe that the right balance has been struck, and in this respect I would like to assure the House that the present exemption for mobility scooters will not be affected.

As regards the second theme, lessening the load on the courts, this Part of the Bill provides for the seizure of motor vehicles in cases where the courts have imposed fines or ordered the payment of compensation for motoring offences that have remained unpaid. The powers of
1550 seizure are also extended to the non-payment of vehicle duty. If the fines, compensation or duty then remain outstanding, seized vehicles may be disposed of and the proceeds used for, or towards, the outstanding payment. These provisions introduce a means of enforcement without further recourse to the courts.

In respect of the third theme, the construction and use of vehicles, provision is made for
1555 better testing and inspection under the related regulations; introduction of powers to make regulations on the use of vehicles by disabled persons; 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 I am sure you will agree serve the public interest.

The fourth theme, improvements to the law on drivers' licences and disqualification, begins
1560 by making four new and important proposals with respect to applications for licences. Importantly, as well as having to declare relevant disabilities as at present, applicants are required to declare prospective relevant disabilities – these, by virtue of their intermittent or progressive nature, may become relevant disabilities in the course of time. Applications to
1565 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 that category of vehicle. And finally, applicants for a licence who are aged 75 or over must have passed a prescribed eyesight test.

For its part, the Department is required to: include in a licence the driving conditions to
1570 which the holder is subject in a case where the Department is satisfied that the holder is suffering from a disability which would present a danger to the public should the said conditions not be complied with; and revoke the licence of a driver who, suspected of driving with defective eyesight, fails the eyesight test.

As a deterrent to unsafe driving a series of new offences is prescribed, namely: making a false
1575 declaration to obtain a licence; secondly, 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 to the Department, when required to do so, a revoked licence or a licence requiring amendment.

Consideration has also been given to the Glasgow bin lorry tragedy in 2014, where the
1580 driver's failure to declare that he was liable to fall unconscious at the wheel led to the death of six people and injuries to several more; and where, as at present in the Island, the law was found to be inadequate to bring a prosecution. The offence of making a false declaration 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 two years' custody or an unlimited fine or both.

As far as disqualification is concerned, in the interest of road safety a provision is introduced
1585 to reduce the number of penalty points leading to the disqualification of a provisional or newly qualified driver from 12 or over to six or over, 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
1590 effectively requires insurers to notify the UK 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.

1595 Lastly, the circumstances in which the furnishing of information is required, for example in the case of accidents, is extended.

I now turn to the rest of the Bill, which makes amendments to the Road Traffic Regulation Act 1985 and the Local Government (Miscellaneous Provisions) Act 1984. There is also an amendment to the Licensing and Registration of Vehicles Regulations 2015.

1600 The amendments to the Road Traffic Regulation Act 1985, contained within Part 3 of the Bill, include: greater penalties for speeding, particularly in residential or school zones or in roadworks areas; regulation of movement of caravans on the Island in accordance with Tynwald instruction; changes to overnight and weekend waiting of certain vehicles; removal of the bureaucratic procedures involved on the one hand in extending the validity of temporary traffic regulation notices, and on the other in temporarily relocating school crossing patrols; extension
1605 of the circumstances in which emergency traffic signs may be used, for example, when blasting operations are taking place at a quarry; the use of Automatic Number Plate Recognition technology to detect, prevent and facilitate the prosecution of offences involved in the use of a motor vehicle; making it an offence to deface traffic signs or other street furniture, or to misuse
1610 a disabled person's badge; and finally, to prescribe a small number of fixed penalty offences, almost all of which relate to parking, being offences under the Road Traffic Regulation (Fixed Penalty Offences) Order 2013.

The amendments of the Local Government (Miscellaneous Provisions) Act 1984 which deals with the removal and disposal of abandoned or illegally parked vehicles, are affected by Part 4 of
1615 the Bill. These include: 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 then only after 14 days' grace is given by notice affixed to the vehicle; and the power to prescribe procedural provisions relating to the retention, release and disposal of vehicles under the Act, being provisions that for consistency are broadly in line with those for
1620 the enforcement of fines, which I have previously addressed.

Part 5 of the Bill contains amendments to the Licensing and Registration of Vehicles Regulations 2015 so that prescribed Departments, offices and boards can request vehicle owner details from the Department in order to investigate an offence, lay a charge or collect any outstanding duties, fees, fines or taxes. This is a consequential amendment due to the changes
1625 described earlier within the Road Traffic Regulation Act 1985.

Finally, Part 6 of the Bill repeals two old amending Acts and section 13(2) of the Road Traffic Act 1985.

All in all, I am convinced that this Bill will make a material contribution to the law on road traffic and drivers. As such, I commend it to the House.

1630 Thank you, Mr Speaker. I beg to move that the Road Traffic Legislation (Amendment) Bill 2020 now be read for a second time.

The Speaker: I call on the Hon. Member for Ayre and Michael, Mr Baker.

1635 **Mr Baker:** Thank you very much, Mr Speaker.
I beg to second.

The Speaker: Thank you.
I call on the Hon. Member for Ramsey, Mr Hooper.

1640 **Mr Hooper:** Thank you very much, Mr Speaker.

Firstly, I would just like to apologise to the Minister for not having contacted him already about some of these queries, and I will do my best to do so after we have finished here today.

1645 Some of the questions I think he has already touched on in his opening remarks, but I would like to go through them just for completeness.

I am not entirely clear on the purpose of prescribing a small list of drugs with a prescribed limit. I heard what the Minister said about following some research in the UK and not prescribing other drugs, but I am not sure there has been a full explanation of why these particular drugs. I mean, there are definitely other drugs out there that will impair your ability to function and I am a little bit confused as to why they are not being brought in with prescribed limits.

1650 I appreciate there are other offences in the Bill that are quite broad on the flip side, or obviously in those comments there are some that just refer generically to 'drugs', which is defined as 'any intoxicant other than alcohol'. So again, if we have an ability in the Bill to arrest people for driving under the influence of any type of drug why then do you need these few prescribed limits? I am not quite certain that circle has been squared, if that makes sense. I would be quite grateful for some thought or explanation from the Minister.

1660 There are some provisions in this as well that seem to allow arrest specifically without a warrant if a police officer suspects a person has drugs. The language used is 'in his body'. They do not actually have to be under the influence of those drugs, simply a reasonable suspicion of having those drugs in their body is enough. And given the very wide definition of 'drugs' in the Act, I wonder if the Minister feels this may be somewhat inappropriate?

1665 If a police officer reasonably suspects I have taken some prescription painkillers he then has the power to arrest me without warrant, irrespective of whether or not I have failed a breath test, irrespective of whether or not it looks I am under the influence or negatively impacted. The powers there are quite specific, he just has to reasonably suspect I have drugs in my body. I am pretty sure coffee is regarded as a drug. Does this Bill mean we are essentially passing a standing warrant for the arrest of the Hon. Member for Garff, who is something of a connoisseur of coffee? I think we need some clarity on what the intention is here.

1670 The provisions in terms of alcohol in the existing Act give this power to arrest without warrant only after a failed breath test or where a test has failed to be provided, and then a court constable has a reasonable cause to suspect; but the drug's powers do not actually require a failed test first. So, again, why are these provisions different from drugs and alcohol?

1675 Another example of where there is a difference is the current Act seems to say that a breath test for alcohol intoxication can only be taken at an accident or if the person is suspected of committing a serious driving offence. The drug provisions are much broader and simply allow a test 'if a constable reasonably suspects a person is under the influence', so there is no stipulation there that there must be a connection to an accident or other serious driving offence.

1680 So I would like to ask the Minister is my understanding correct and if so why are the provisions for alcohol and drugs so different? If this is updated language, for example, why is he not also updating the offences in relation to alcohol, or is there a genuine good reason why they should be different? Because I am not so sure that there is.

1685 Following on from this, some of the sentences actually seem different. Driving with excess alcohol in breath, blood or urine is a sentence of six months or a £5,000 fine or both; but the same drug offence, driving or attempting to drive with a concentration of specified controlled drug above specified limit, is a summarily Level 5 fine on the scale, but no custody. Similarly, being in charge of a vehicle with excess alcohol in your breath is three months or £2,500 or both; but being in charge of a vehicle with a concentration of specified controlled drug, Level 5 on the standard scale but no custody.

1690 So again, why are these offences treated differently? Why is it that you can lock somebody up for driving under the influence of drink having failed a test, but not for drugs? I do not really understand the logic here as to why there are different offences.

1695 I think we need some explanation and some clarity here as to why these sections are different; why the drug provisions are different from the alcohol provisions; why the drug provisions are much broader in some cases; why the alcohol provisions perhaps are not being updated. There are a number of other queries that lead off from some of these questions.

I will do my best to send these through to the Minister for his review, but if he could comment on some of this now I think I would be very grateful for some initial insight.

Thank you very much, Mr Speaker.

1700 **The Speaker:** Thank you, Mr Hooper.

Now, as no other Member has indicated a wish to speak I call on the mover to reply.

Mr Harmer: Thank you, Mr Speaker.

Thank you to my seconder for seconding; and to Mr Hooper for those comments.

1705 I will come back to him with full detail on all of those. Essentially, there is provision in Tynwald to modify the list of drugs. Those lists of drugs are not fixed, but as increased evidence comes about we can modify those drugs.

1710 The intention is to have the penalties linked to the severity and the likelihood of accidents – or accidents is not the correct word, of road traffic collisions – and that is why they have been specified on those. It very much was in line with other jurisdictions and that is why we went for those particular amounts. But I will come back to the Hon. Member in detail on those enquiries that he has just made.

With that, I beg to move that the Road Traffic Legislation (Amendment) Bill 2020 is moved for a second time.

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The Speaker: Thank you.

I put the question then that the Road Traffic Legislation (Amendment) Bill 2020 be read for a second time. I presume that the motion will be carried unless any Member indicates dissent, which they should do now.

1720 No dissent being indicated. The ayes have it. The ayes have it.