

Appendix A - Background & Legislative Framework

In summary there are eleven toll roads in the State, of which ten are situated on the national road network, with one on the local network in Dublin (i.e. Ringsend Bridge Toll – formally known as Eastlink).

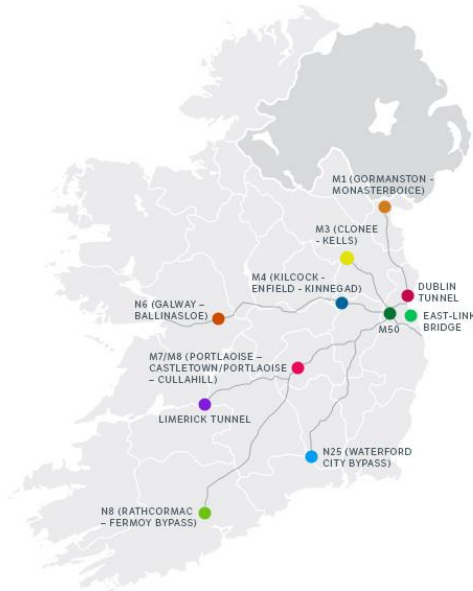
Of the ten toll roads on the national network, two can be described as ‘public’ tolls (M50 eFlow and Dublin Tunnel) as the toll revenues are collected directly for TII as a public authority (by operating companies under contract to TII). These ‘public’ toll revenues are invested by TII in the operation and maintenance of the road network (more on this point later).

The other eight toll roads are described as ‘public private partnership’ (PPP) toll roads which were constructed and are now operated and maintained under long term contracts with TII using a mix of public and private financing. The revenues collected on these toll roads are collected by the PPP company for the benefit of the PPP company and are generally used to repay loans (borrowed to finance construction of the road) and to fund ongoing operations and maintenance activities.

The public law and private / contract law considerations with respect to increasing toll charges for both public toll roads and PPP toll roads are somewhat different. In addition, there are different financial and budgetary implications relating to toll revenue generated (described below) with TII more reliant on the ‘public’ toll revenues.

In terms of the legislative framework for tolling in Ireland, any tolling scheme is required to comply with certain legislative provisions and approvals. The main provisions are set out in the Roads Act 1993 (as amended) which establishes the legal framework for charging tolls. This legislation provides statutory powers to charge tolls for the use of national roads and defines the statutory process to be followed to implement a toll scheme. The main elements of this process are as follows:

- i. **A Draft Toll Scheme** must be prepared and made available to the public **with an Explanatory Statement** and instructions on how to make objections. The Draft Toll Scheme should:
 - Specify the public road or proposed public road to be tolled;
 - Indicate the classes of vehicles and road users for whose use the toll road is intended;
 - Indicate the classes of vehicles and / or road users to be charged tolls and any exemptions;
 - Include an estimate of the amounts of the toll charges for vehicles and road users;
 - Include provision for various levels of default tolls (penalties) where a toll is unpaid;
 - The Explanatory Statement should include information on the construction, maintenance and operation of the toll road and details on the costs and payments of costs, as well as traffic and revenue estimates. The Explanatory Statement, would appear to imply that the toll revenue collected is for the purpose of the operation and maintenance of new infrastructure although, that said, an initial legal view on this point indicated that the explanatory statement and the tolls scheme for Dublin Tunnel and the M50 do not specify how the proceeds of tolls should be, or are intended to be, applied by TII.

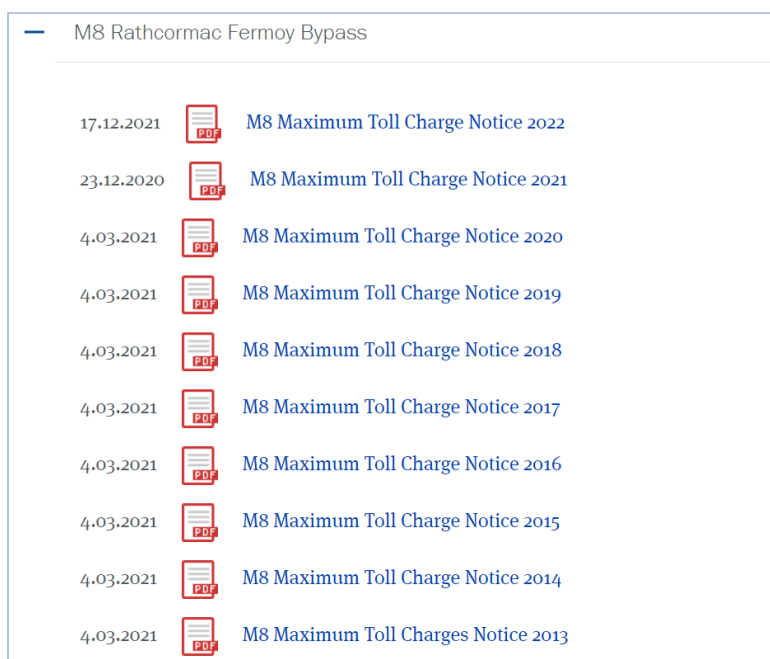


- ii. A public **Oral Hearing** must be held to deal with any objections to the Draft Toll Scheme. The report and recommendations of the person appointed to hold the oral hearing are to be considered by the TII Board prior to determining whether or not to adopt the Draft Toll Scheme.
- iii. Following adoption of the Toll Scheme, TII is subsequently required to prepare and **publish Draft Bye-Laws** for the scheme and instructions on how to make an objection. The draft Bye-Laws are to be approved by the Board of the Authority for adoption.

The Bye-Laws for each toll road are available on the TII website at the following address for <https://www.tii.ie/roads-tolling/tolling-information/statutory-notice/>

- iv. The method for calculating toll charges is set out in the Bye-Laws for each toll road. The Maximum Toll is calculated by indexing the Base Tolls set out in the relevant Bye-Law by the consumer price index (CPI) applicable in August of the preceding year, with VAT included where applicable.¹ The actual toll charges (i.e. the Appropriate Tolls or Applicable Tolls) are capped at the Maximum Toll levels.

The previous maximum toll charge notices for the past 12 years are available on the same section of the TII website as shown below for the M8 Rathcormac Fermoy Bypass Toll Road: <https://www.tii.ie/roads-tolling/tolling-information/statutory-notice/>



There are also other legislative requirements to be mindful of including the European directive on the Electronic Tolling Systems (relating to interoperability of tolling systems) and the Eurovignette directives (primarily relating to the charges applied to Heavy Goods Vehicles), which includes a requirement for European Commission approval of new or modified tolling arrangements and in particular to ensure that the charging regime comply with the rules as laid out in the Eurovignette directives.

The 2022 Eurovignette Directive has amended the 1999 Directive in certain places and sets out certain requirements around using “revenues generated from infrastructure and external costs charges” to be used to benefit the transport sector, optimise the entire transport system and to make transport more sustainable – and

¹ VAT is applicable to tolls on privately operated PPP toll schemes but is not applicable on public sector operated tolls (i.e., M50 and Dublin Tunnel tolls). For instance, the standard rate of VAT of 23% is used in calculating the 2023 Toll Charges.

set out various requirements including: *reducing road transport pollution; mitigating effects of road transport pollution; improving CO2 and energy performance of vehicles; developing alternative infrastructure for transport users and/or expanding current capacity; supporting the trans-European transport network; optimising logistics; improving road safety; and providing secure parking places.* The Eurovignette directive, also requires Members States to publish a report from 2025 to include the use of the revenues generated from tolls.

There is an overview of relevant legislative provisions below for ease of reference.

Overview of Existing Legislative Arrangements:

- TII is a road authority for the purposes of Part V (tolling) of the Roads Act 1993-2015 (the “Roads Act”)
- Toll Schemes and associated Bye-Laws last indefinitely (unless replaced by a new Toll Scheme).
- **Section 59** contains provisions which underpin the right of the Authority to charge and collect tolls. A road authority, being in the case of a national road — the National Roads Authority - may, in accordance with section 59(1) of the Roads Act: *“charge and collect tolls of such amounts as may be specified for the time being in bye-laws made by it under section 61 in respect of the use of a toll road”.*
- **Section 63** - where the road authority has entered into an agreement under section 63 of the Roads Act and such agreement provides for the collection of tolls by a person specified in the agreement, that person and his servants and agents may collect the tolls to which the agreement relates and such agreement may, in accordance with section 63(2)(a): *“provide for the application of the proceeds of tolls, systems of accounting for tolls collected and the methods and times of payment of proceeds of tolls to the persons to whom they are to be paid under the terms of the agreement”.*
- **Regulation 15(2) of the Road Regulations 1994** does provide that: *“Moneys accruing to the Authority under the Act shall, unless the Minister otherwise directs, be applied for the purposes of its functions under the Act or otherwise in relation to the construction and maintenance of national roads.”*

APPENDIX B – PPP Toll Concession Schemes

The table below lists TII's PPP Toll Concession Schemes along with the contract award, contract expiry and operations commencement date for each scheme.

The table provides a summary of Outstanding Senior Debt on PPP schemes as at 31 Dec 2021. These figures have been extracted from the audited annual PPP Co Financial Statements and were reported to DPER by TII as part of TII's returns in September 2022, in accordance with Council Regulation (EC) No. 479/2009 (Excessive Deficit Procedure "EDP"). The table also includes the Contractual Capital Values that are reported on the EDP returns. These values reflect TII estimates based on extracts from the Financial Close Models (including construction costs, VAT, and SPV costs where available).

Table: Summary of PPP Toll Concession Schemes

SCHEME	DESCRIPTION (Project Road*)	OPERATIONS COMMENCED	CONTRACT AWARD/ CONTRACT EXPIRY	OUTSTANDING SENIOR DEBT #
M4/M6 Kilcock/Kinnegad	40km motorway	2005	2003/2033	€69.4M
M1 Dundalk Western Bypass	11km motorway & O&M of 42km existing motorway.	2004	2004/2034	€65.1M
M8 Rathcormac/Fermoy	18km new motorway.	2006	2004/2034	€50.1M
N25 Waterford City Bypas	23km dual carriageway	2010	2006/2036	€90.2M
N18 Limerick Tunne	10km dual carriageway	2010	2006/2041	€148.4M
M3 Clonee/Kells	50km Motorway & 10 km dual carriageway	2010	2007/2052	€72.0M
M6 Galway/Ballinasloe	56km motorway	2010	2007/2037	€37.4M
M7/M8 Portlaoise/Cullahill	40km motorway	2010	2007/2037	€198.5M

*Project Road relates to the extent of the works that the PPP Co is responsible for (operations, maintenance & lifecycle) throughout the concession period. The PPP Contract would also have provided for works outside of the Project Road which include local link roads, access tracks and accommodation works, etc. These non-Project Road works are taken over by the relevant local authority / landowner following completion and the PPP Co's obligations in respect of such non Project Road works is limited to a defects period.

Source: PPP Company Audited Accounts at 31 December 2021.

APPENDIX C – Summary of Toll Charges 2005 to 2023

Table 1 Toll Charge Profile for PPP Concession Schemes (€)

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
CPI (based on Aug prior year) assuming Base Nov 1996 = 100	129.2	132.1	138.1	144.5	150.9	141.9	142.2	145.2	148.104	148.4	149.0	149.0	148.8	149.5	150.4	151.5	150.0	154.4	167.7
CPI growth (Aug prior year)		2.2%	4.5%	4.6%	4.4%	-6.0%	0.2%	2.1%	2.0%	0.2%	0.4%	0.0%	-0.1%	0.5%	0.6%	0.7%	-1.0%	2.9%	8.6%
VAT Rate*	21%	21%	21%	21%	21.5%	21%	21%	23%	23%	23%	23%	23%	23%	23%	23%	23%	23%	23%	23%
M1, N6, M7/M8, N8, N25WF, & LT	M1	M1,M8	M1,M8	M1,M8	M1,M8,N6,N25WF	All	All	All	All	All	All	All	All	All	All	All	All	All	All
Motor Cycles (exceeding 50cc)	0.80	0.90	0.90	0.90	1.00	1.00	0.90	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.10
Motor Cars	1.60	1.60	1.70	1.80	1.90	1.90	1.80	1.80	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	2.00	2.10
Buses or Coaches	2.90	2.90	3.10	3.20	3.40	3.40	3.20	3.30	3.30	3.30	3.40	3.40	3.40	3.40	3.40	3.40	3.40	3.50	3.80
Goods Vehicles with a design gross vehicle weight <i>not exceeding 3,500 kilograms</i>	2.90	2.90	3.10	3.20	3.40	3.40	3.20	3.30	3.30	3.30	3.40	3.40	3.40	3.40	3.40	3.40	3.40	3.50	3.80
Goods Vehicles with a design gross vehicle weight <i>exceeding 3,500 kilograms and having 2 or 3 axles</i>	4.10	4.10	4.30	4.50	4.80	4.70	4.50	4.60	4.70	4.70	4.80	4.80	4.80	4.80	4.80	4.80	4.80	4.90	5.40
Goods Vehicles with a design gross vehicle weight <i>exceeding 3,500 kilograms and having 4 or more axles</i>	5.20	5.30	5.50	5.80	6.10	6.00	5.70	5.90	6.00	6.00	6.10	6.10	6.10	6.10	6.10	6.20	6.20	6.30	6.80
M3																			
Motor Cycles (exceeding 50cc)						0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.80	0.80	0.80	0.80
Motor Cars						1.30	1.30	1.40	1.40	1.40	1.40	1.40	1.40	1.40	1.40	1.50	1.50	1.50	1.60
Buses or Coaches						2.00	2.00	2.10	2.20	2.20	2.20	2.20	2.20	2.20	2.20	2.20	2.20	2.30	2.40
Goods Vehicles with a design gross vehicle weight <i>not exceeding 3,500 kilograms</i>						2.00	2.00	2.10	2.20	2.20	2.20	2.20	2.20	2.20	2.20	2.20	2.20	2.30	2.40
Goods Vehicles with a design gross vehicle weight <i>exceeding 3,500 kilograms and having 2 or 3 axles</i>						2.70	2.70	2.80	2.90	2.90	2.90	2.90	2.90	2.90	2.90	2.90	2.90	3.00	3.20
Goods Vehicles with a design gross vehicle weight <i>exceeding 3,500 kilograms and having 4 or more axles</i>						3.30	3.30	3.40	3.50	3.50	3.50	3.50	3.50	3.50	3.60	3.60	3.60	3.70	4.00
M4																			
Motor Cycles (exceeding 50cc)	1.30	1.30	1.30	1.40	1.50	1.50	1.40	1.40	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.70
Motor Cars	2.40	2.50	2.60	2.70	2.90	2.90	2.70	2.80	2.90	2.90	2.90	2.90	2.90	2.90	2.90	2.90	2.90	3.00	3.20
Buses or Coaches	3.70	3.80	4.00	4.10	4.30	4.30	4.10	4.20	4.30	4.30	4.30	4.30	4.30	4.40	4.40	4.40	4.40	4.50	4.90
Goods Vehicles with a design gross vehicle weight <i>not exceeding 3,500 kilograms</i>	3.70	3.80	4.00	4.10	4.30	4.30	4.10	4.20	4.30	4.30	4.30	4.30	4.30	4.40	4.40	4.40	4.40	4.50	4.90
Goods Vehicles with a design gross vehicle weight <i>exceeding 3,500 kilograms and having 2 or 3 axles</i>	4.90	5.00	5.20	5.50	5.70	5.70	5.40	5.60	5.70	5.70	5.70	5.70	5.70	5.80	5.80	5.80	5.80	6.00	6.50
Goods Vehicles with a design gross vehicle weight <i>exceeding 3,500 kilograms and having 4 or more axles</i>	6.00	6.20	6.40	6.70	7.10	7.00	6.60	6.90	7.00	7.00	7.10	7.10	7.10	7.10	7.10	7.20	7.20	7.30	7.90

Note: Table does not include temporary toll reductions arising from reduction in VAT from 23% to 21% between 1 Sept 2020 and 28 Feb 2021 and the increase in VAT from 21% to 21.5% in Dec 2008. Also note that VAT increased from 21% in 2011 to 23% in 2012.

Increase in Toll

Decrease in Toll

Table 2 Toll Charge Profile for Dublin Tunnel and M50 (€)

		2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
CPI (based on Aug prior year) assuming Base Dec 2006 = 100		103.6	108.1	101.7	101.9	104.1	106.2	106.3	106.8	106.8	106.7	107.2	107.8	108.6	107.5	110.7	120.2
CPI growth (Aug prior year)		4.8%	4.3%	-5.9%	0.2%	2.2%	2.0%	0.1%	0.5%	0.0%	-0.1%	0.5%	0.6%	0.7%	-1.0%	3.0%	8.6%
Dublin Tunnel																	
Cars and light commercial vehicles (i.e. vehicles other than Goods Vehicles with a design gross vehicle weight exceeding 3,500 kilograms and buses with more than 25 seats).	Southbound: 6.00 am to 10.00 am (Mon-Fri)	12.00	12.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00
	Southbound: 10.00 am to 10.00pm (Mon-Fri)	6.00	6.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00
	Southbound: All other times and Bank Holidays	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00
	Northbound: 4.00 pm to 7.00 pm (Mon-Fri)	12.00	12.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00
	Northbound: 6.00 am to 4.00 pm and 7.00 pm to 10.00 pm (Mon-Fri)	6.00	6.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00
	Northbound: All other times and Bank Holidays	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00
M50																	
A Motor Car or public service vehicle with seating for up to eight (8) passengers.	On Board Unit Registered Vehicle	2.00	2.00	2.00	2.00	2.00	2.10	2.10	2.10	2.10	2.10	2.10	2.10	2.10	2.10	2.10	2.30
	Video Account Registered Vehicle	2.50	2.50	2.50	2.50	2.50	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.70	2.90
	Other Vehicles	3.00	3.00	3.00	3.00	3.00	3.10	3.10	3.10	3.10	3.10	3.10	3.10	3.10	3.10	3.20	3.50
(a) A Goods Vehicle with an unladen vehicle weight not exceeding two thousand (2,000) kilograms; or (b) a Bus or Coach with seating for more than eight (8) passengers.	On Board Unit Registered Vehicle	2.80	2.80	2.70	2.80	2.80	2.90	2.90	2.90	2.90	2.90	2.90	2.90	2.90	2.90	3.00	3.20
	Video Account Registered Vehicle	3.30	3.30	3.20	3.20	3.30	3.40	3.40	3.40	3.40	3.40	3.40	3.40	3.50	3.50	3.50	3.80
	Other Vehicles	3.80	3.80	3.70	3.70	3.80	3.90	3.90	3.90	3.90	3.90	3.90	4.00	4.00	4.00	4.10	4.40
A Goods Vehicle with an unladen vehicle weight exceeding two thousand (2,000) kilograms but not exceeding ten thousand (10,000) kilograms.	On Board Unit Registered Vehicle	4.10	4.10	4.00	4.00	4.10	4.20	4.20	4.20	4.20	4.20	4.20	4.30	4.30	4.30	4.40	4.80
	Video Account Registered Vehicle	4.60	4.60	4.50	4.50	4.60	4.70	4.70	4.70	4.70	4.70	4.80	4.80	4.80	4.80	4.90	5.30
	Other Vehicles	5.10	5.10	5.00	5.00	5.10	5.20	5.20	5.30	5.30	5.30	5.30	5.30	5.30	5.30	5.40	5.90
(a) A Goods Vehicle with an unladen vehicle weight exceeding ten thousand (10,000) kilograms; or (b) a tractor unit for an articulated vehicle.	On Board Unit Registered Vehicle	5.10	5.10	5.00	5.00	5.10	5.20	5.20	5.30	5.30	5.30	5.30	5.30	5.30	5.30	5.40	5.90
	Video Account Registered Vehicle	5.60	5.60	5.50	5.50	5.60	5.70	5.70	5.80	5.80	5.80	5.80	5.80	5.90	5.90	6.00	6.50
	Other Vehicles	6.10	6.10	6.00	6.00	6.10	6.30	6.30	6.30	6.30	6.30	6.30	6.30	6.30	6.40	6.40	6.50
Initial Default Toll for a user/vehicle class is the Applicable Toll specified for the User/Vehicle Class plus:		3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.50
Additional Default Toll for a user/vehicle class is the Initial Default Toll specified for the User/Vehicle Class plus:		40.00	41.50	39.50	39.50	40.00	41.00	41.00	41.00	41.00	41.00	41.50	41.50	42.00	41.50	42.50	46.50
Final Default Toll for a user/vehicle class is the Additional Default Toll specified for the User/Vehicle Class plus:		100.00	104.50	98.00	98.50	100.50	102.50	102.50	103.00	103.00	103.00	103.50	104.00	105.00	104.00	107.00	116.00
Increase in Toll																	
Decrease in Toll																	