

# SAORSTAT EIREANN.

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## BILLE UM IOMPAR AR BHOITHRE, 1933. ROAD TRANSPORT BILL, 1933.

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*Mar do ritheadh ag dhá Thigh an Oireachtais.  
As passed by both Houses of the Oireachtas.*

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# SAORSTÁT EIREANN.

BILLE UM IOMPAR AR BHOITHRE, 1933.  
ROAD TRANSPORT BILL, 1933.

## BILL

*entitled*

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AN ACT TO MAKE FURTHER AND BETTER PROVISION  
FOR THE REGULATION AND CONTROL OF THE  
CARRIAGE OF PASSENGERS, MERCHANDISE, AND  
MAILS BY ROAD.

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT 10  
EIREANN AS FOLLOWS:—

### PART I.

#### PRELIMINARY AND GENERAL.

Short title.

1.—This Act may be cited as the Road Transport Act, 1933.

Definitions.

2.—In this Act—

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the expression “the Minister” means the Minister for Industry  
and Commerce;

the expression “the Act of 1932” means the Road Transport  
Act, 1932 (No. 2 of 1932);

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the expression “mails” includes mail bags and postal packets  
(other than telegrams) as defined in the Post Office Act, 1908;

the expression “merchandise” includes goods, wares, minerals  
and animals, but does not include passenger’s luggage or mails;

the expression “mechanically propelled vehicle” does not include 25  
a railway engine or a tramcar or other vehicle running on  
permanent rails;

the expression “carriage for reward” does not include the  
carriage of merchandise supplied to a customer by the owner of  
the mechanically propelled vehicle in which such merchandise is 30  
being carried, if such merchandise is so carried in course of  
delivery to such customer.

the expression “merchandise road transport” means the carriage  
for reward by road in mechanically propelled vehicles or in  
vehicles drawn by mechanically propelled vehicles of merchandise 35  
and includes, so far as they are carried on by means of such  
vehicles, the services of collection and delivery of merchandise  
hitherto carried on by railway, canal, and shipping companies, as  
ancillary or subsidiary to their main undertakings, or by agents  
on behalf of such companies, but does not include— 40

(a) the carriage of merchandise by passenger road services  
licensed under the Act of 1932, or

(b) the carriage of mails by or under contract with the  
Minister for Posts and Telegraphs, or

(c) the carriage of merchandise by means of any vehicle 45  
primarily provided for the carriage of mails where  
and to the extent to which the carriage of merchandise  
by means of such vehicle is permitted under the  
contract made with the Minister for Posts and  
Telegraphs; 50

the expression "authorised (merchandise carrying) company" means a company to which Part III of the Act of 1932 applies and which is entitled by virtue of section 28 of the Act of 1932 to engage in or carry on the business of carrying merchandise by road.

the expression "authorised (passenger carrying) company" means a company to which Part III of the Act of 1932 applies and which is entitled by virtue of section 28 of the Act of 1932 to engage in or carry on the business of carrying passengers by road;

the expression "shipping company" means a person carrying on a regular steamer service to or from a port in Saorstát Éireann;

the expression "vehicle plate" means a plate of that name issued under Part II of this Act;

the word "lorry" means a mechanically propelled vehicle fitted with a body designed and constructed for the carriage of merchandise;

the word "tractor" means a mechanically propelled vehicle which—

(a) is not a lorry, and

(b) is constructed and designed for the traction of another vehicle;

the expression "the registration book" in relation to a mechanically propelled vehicle means the registration book for such vehicle issued under the Roads Act, 1920;

the expression "passenger road service" has the same meaning as in the Act of 1932, as amended by this Act;

the expressions "passenger licence" and "annual passenger licence" have the same meanings respectively as in the Act of 1932;

the expression "unladen weight" in relation to a mechanically propelled vehicle means the unladen weight specified in the registration book which relates to such vehicle;

the word "prescribed" means prescribed by regulations made by the Minister under this Act.

3.—(1) Any person who claims that he is a person who carried on an existing merchandise road transport business, within the meaning of this section, or that he is the successor in title to a person who carried on an existing merchandise road transport business may, not later than one month after the date of the passing of this Act, apply to the Minister for the grant of a certificate under this section. Existing carriers.

(2) Every application under this section shall be in writing and shall state fully the facts upon which the applicant claims that he or his predecessor in title is a person who carried on an existing merchandise road transport business.

(3) Where any application is made to the Minister under and in accordance with this section, the Minister shall, if, but only if, he is satisfied that the applicant or his predecessor in title is a person who carried on an existing merchandise road transport business, issue a certificate to the applicant accordingly, and any person to whom a certificate is issued under this section and no other person shall be an existing carrier for the purposes of this Act.

(4) A person shall for the purposes of this section be a person who carried on an existing merchandise road transport business, if he was carrying on such existing merchandise road transport business at the date of the passing of this Act and such business

was during the whole of the period necessary to constitute it an existing merchandise road transport business carried on either by such person or successively by persons from or through whom such person claims to be entitled to such business and by such person. 5

(5) For the purposes of this section the following provisions shall have effect, that is to say:—

(a) each of the following shall be an existing merchandise road transport business, that is to say:—

(i) any merchandise road transport business which was commenced after the 1st day of July, 1932 and before the 8th day of February, 1933, and was carried on in the manner required by this sub-section during the whole of the period beginning on the date of such commencement and ending on the date of the passing of this Act, 10 15

(ii) a merchandise road transport business which was carried on in the manner required by this sub-section during the whole of the period beginning on the 1st day of July, 1932 and ending on the date of the passing of this Act; 20

(b) a merchandise road transport business shall not be deemed to have been carried on in the manner required by this sub-section during any period unless during such period such business was— 25

(i) having regard to its nature, carried on with reasonable continuity, and

(ii) carried on with mechanically propelled vehicles duly licensed in Saorstát Éireann under section 13 of the Finance Act, 1920 as amended by subsequent enactments. 30

Presumption of carriage of merchandise for reward.

4.—Where a mechanically propelled vehicle or a vehicle drawn by a mechanically propelled vehicle is used for the carriage of merchandise not the property of the owner of such vehicle, such merchandise shall, until the contrary is proved, be deemed for the purposes of this Act to be carried for reward. 35

The appointed day.

5.—(1) The Minister may after consultation with the Minister for Justice, by order appoint a day not less than three months after the passing of this Act to be the appointed day for the purposes of this Act. 40

(2) In this Act the expression “the appointed day” means the day appointed by the Minister by order under this section.

Regulations.

6.—The Minister may by order make regulations for all or any of the following purposes, that is to say:—

(a) prescribing any thing which is in this Act referred to as prescribed or as prescribed by regulations made by the Minister; 45

(b) prescribing any thing which the Minister is by this Act authorised to prescribe by regulations made under this Act. 50

Expenses.

7.—(1) All expenses incurred by the Minister or the Garda Síochána in carrying this Act into execution shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

(2) All fees received by the Minister or a Chief Superintendent of the *Gárda Síochána* under this Act shall be collected and accounted for in such manner as shall be prescribed by the Minister with the sanction of the Minister for Finance.

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## PART II.

### REGULATION OF MERCHANDISE ROAD TRANSPORT BUSINESSES.

8.—(1) Each of the following areas shall for the purposes of this Part of this Act be an exempted area, that is to say:—

Exempted areas.

- 10 (a) the area included within a circle having a radius of fifteen miles and its centre at the principal post office in the city of Dublin;
- (b) the area included within a circle having a radius of fifteen miles and its centre at the principal post office in the city of Cork;
- 15 (c) the area included within a circle having a radius of ten miles and its centre at the principal post office in the city of Limerick;
- (d) the area included within a circle having a radius of ten miles and its centre at the principal post office in the city of Waterford;
- 20 (e) the area included within a circle having a radius of ten miles and its centre at the principal post office in the town of Ballina;
- (f) the area included within a circle having a radius of ten miles and its centre at the principal post office in the town of Drogheda;
- 25 (g) the area (except so much thereof as is situate in Northern Ireland) included within a circle having a radius of ten miles and its centre at the principal post office in the town of Dundalk;
- 30 (h) the area included within a circle having a radius of ten miles and its centre at the principal post office in the town of Galway;
- (i) the area included within a circle having a radius of ten miles and its centre at the principal post office in the town of Sligo;
- 35 (j) the area included within a circle having a radius of ten miles and its centre at the principal post office in the town of Tralee;
- 40 (k) the area included within a circle having a radius of ten miles and its centre at the principal post office in the town of Westport;
- (l) the area included within a circle having a radius of ten miles and its centre at the principal post office in the town of Wexford.
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(2) For the purposes of this Part of this Act a certificate purporting to be signed and issued by an officer of the Ordnance Survey and to certify the distance measured in a straight line upon a horizontal plane between the principal post office in any specified city or town and any specified place shall be conclusive evidence (without proof of the signature of such officer or that he was such officer) of such distance.

(3) For the purposes of this section the principal post office in any city or town shall be the post office which on the appointed day is the principal or only post office in such city or town.

9.—(1) On and after the appointed day it shall not be lawful for any person in the course of a merchandise road transport business carried on by him to carry merchandise in any area in Saorstát Éireann unless—

Prohibition of carrying on merchandise road transport business by unlicensed persons.

- 60 (a) such person is the holder of a licence (in this Act referred to as a merchandise licence) granted under this Part of this Act authorising him to carry on

merchandise road transport business in that area and such business is carried on under and in accordance with such licence, or

- (b) such area is an exempted area and merchandise is carried by such person in the course of such merchandise road transport business only in such area or such area and other exempted areas. 5

(2) Every person who carries on a merchandise road transport business in contravention of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds together with, in the case of a continuing offence, a further fine not exceeding five pounds for every day during which the offence continues. 10

(3) A certificate purporting to be signed by an officer of the Minister and to certify that on a specified day or days or during the whole of a specified period a specified person was not the holder of a merchandise licence authorising him to carry on a merchandise road transport business in respect of a specified class of merchandise within a specified area, shall, without proof of the signature of the person purporting to sign such certificate or that he was an officer of the Minister be evidence until the contrary is proved of such of the matters aforesaid as are purported to be certified in and by such certificate. 15 20

Vehicle plate  
issuing stations.

10.—The Minister may, after consultation with the Commissioner of the Garda Síochána, from time to time by order appoint such and so many Garda Síochána stations as he thinks proper to be vehicle plate issuing stations for the purposes of this Part of this Act, and every Garda Síochána station so appointed shall be a vehicle plate issuing station for the purposes of this Part of this Act. 25 30

Applications for  
merchandise  
licences.

11.—(1) The following provisions shall have effect in relation to applications for merchandise licences, that is to say:—

- (a) every application shall be in the prescribed form, and be made to the Minister in the prescribed manner; 35
- (b) every application shall state—
- (i) the area or areas in which the applicant proposes to carry on a merchandise road transport business;
  - (ii) the class or classes of merchandise proposed to be carried by the applicant;
  - (iii) the vehicle plate issuing station at which the applicant, in the event of his application being granted, desires that vehicle plates should be available for issue to him; 40
  - (iv) such other particulars as may be prescribed.

(2) When the applicant for a merchandise licence is an existing carrier, his application if made before the appointed day shall, in addition to the matters required by the immediately preceding sub-section to be stated therein, state— 45

- (a) the merchandise road transport business in respect of which the applicant claims to be an existing carrier; 50
- (b) the number of mechanically propelled vehicles being lorries or tractors, and so classified in such application which, at any specified date (in this Act referred to as the critical date) between the 1st day of July, 1932, and the 8th day of February, 1933, selected by the applicant, complied with the following conditions (in this Act referred to as the qualifying conditions) that is to say, were—
- (i) duly licensed in Saorstát Éireann under section 13 of the Finance Act, 1920, as amended by subsequent enactments; 60
  - (ii) in use or available for the purpose of such merchandise road transport business; and

(c) particulars (including the unladen weight) of each of such mechanically propelled vehicles.

(3) There shall be sent to the Minister with every application made in accordance with the immediately preceding sub-section the registration books relating to the mechanically propelled vehicles particulars of which are stated in such application.

(4) Every person who applies for a merchandise licence shall, when required by the Minister so to do, furnish to the Minister all such information as the Minister may require for the consideration of such application.

(5) The Minister may require any statement of fact made in an application for a merchandise licence or made to the Minister in response to a request for information under the immediately preceding sub-section of this section to be verified by the statutory declaration of some person having personal knowledge of the fact so stated.

(6) If any person fails to furnish any information or any verification which he is required by the Minister under this section to furnish, the Minister may on the ground of such failure refuse the application in relation to which such information or verification was so required.

12.—(1) Subject to the provisions of the immediately preceding section, the Minister shall grant a merchandise licence to every authorised (merchandise carrying) company which at any time applies to him for such licence in accordance with the said section.

Grant of  
merchandise  
licences.

(2) Subject to the provisions of the immediately preceding section, the Minister shall grant a merchandise licence to every existing carrier who before the appointed day applies to him for such licence in accordance with the said section.

(3) Subject to the provisions of the immediately preceding section, the Minister may if he so thinks fit grant a merchandise licence to any shipping company which after the appointed day applies to him for such licence in accordance with the said section.

(4) Where an application is made in accordance with the immediately preceding section after the appointed day by a person other than an authorised (merchandise carrying) company for the grant of a merchandise licence to carry on a merchandise road transport business in respect of a specified class or specified classes of merchandise in a specified area, the following provisions shall have effect, that is to say:—

(a) if the Minister is satisfied that the existing merchandise road transport facilities in such area are inadequate, he shall request such authorised (merchandise carrying) company, as he may select, to provide within such time as he may fix adequate merchandise road transport facilities in such area;

(b) if the said authorised (merchandise carrying) company does not within the said time provide merchandise road transport facilities which are, in the opinion of the Minister, adequate for such area, the Minister may, if he considers it desirable in the public interest so to do, grant such licence to such person.

(5) The Minister shall not at any time grant a merchandise licence to any person other than a person to whom the Minister is required or authorised by this section to grant a merchandise licence.

(6) In this Act the expression "merchandise (existing carrier's) licence" means a merchandise licence granted to an existing carrier in pursuance of sub-section (2) of this section.

Standard lorry weights and tractor weights for existing carrier.

13.—The Minister before granting a merchandise licence to an existing carrier in pursuance of an application made before the appointed day shall—

- (a) in case any of the mechanically propelled vehicles specified in such application were lorries which, in the opinion of the Minister, at the critical date complied with the qualifying conditions, ascertain the total unladen weight of such lorries and the total unladen weight so ascertained shall for the purposes of this Act be the standard lorry weight for the licensee under such licence; 10
- (b) in case any of the mechanically propelled vehicles specified in such application were tractors which, in the opinion of the Minister, at the critical date complied with the qualifying conditions, ascertain the total unladen weight of such tractors and the total unladen weight so ascertained shall for the purposes of this Act be the standard tractor weight for the licensee under such licence. 15

Operation of merchandise licences.

14.—(1) Every merchandise licence granted in pursuance of an application shall— 20

- (a) operate and be expressed to authorise the licensee under such licence to carry on a merchandise road transport business in respect of the merchandise specified in such application within the area or areas specified in such application, but subject to the provisions of this Act and regulations made thereunder and to the conditions specified in such licence; 25
- (b) state the vehicle plate issuing station at which vehicle plates will be available for issue to such licensee, and such station shall be the station stated in such application as the station at which such licensee desired that vehicle plates should be available for issue to him; 30
- (c) state whether such licensee is or is not an existing carrier. 35

(2) Subject to the provisions of this section, every merchandise (existing carrier's) licence shall operate and be expressed to authorise the licensee under such licence—

- (a) if there is a standard lorry weight for such licensee but no standard tractor weight for such licensee to carry on the business authorised by such licence only with a lorry or lorries, the unladen weight or total unladen weight of which does not exceed such standard lorry weight; 40
- (b) if there is a standard tractor weight for such licensee, but no standard lorry weight for such licensee, to carry on the business authorised by such licence only with a tractor or tractors the unladen weight or total unladen weight of which does not exceed such standard tractor weight; 45
- (c) if there is a standard lorry weight for such licensee and also a standard tractor weight for such licensee, to carry on the business authorised by such licence only with a lorry or lorries the unladen weight or total unladen weight of which does not exceed such standard lorry weight and a tractor or tractors the unladen weight or total unladen weight of which does not exceed such standard tractor weight or with such lorry or lorries or such tractor or tractors. 50 55

(3) Where a merchandise (existing carrier's) licence is transferred under this Act to an authorised (merchandise-carrying) company, the following provisions shall have effect, that is to say:— 60

- (a) sub-section (2) of this section shall cease to have effect in relation to such licence, and
- (b) the Minister shall, on the application of such company, amend such licence accordingly. 65

15.—(1) It shall be an obligation on every licensee under a merchandise licence to whom merchandise of a class specified in such licence is offered for carriage between any two places within the area specified in such licence to accept such merchandise for carriage for a reasonable reward between such two places.

Obligation of licensees to accept merchandise for carriage.

(2) If any licensee under a merchandise licence refuses to comply with the obligation imposed on him by this section, such licensee shall, unless he satisfies the court that such refusal was in the circumstances reasonable, be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds.

16.—(1) No licensee under a merchandise licence shall, in carrying on the business authorised by such licence, make or give any undue or unreasonable preference or advantage to or in favour of any particular person, trade, industry, district or port nor subject any particular person, trade, industry, district or port to any undue or unreasonable prejudice or disadvantage.

Prohibition of undue preference by licensees.

(2) Any person, any representative body of traders, or any body of persons representative of a trade or a locality may, on the ground that there has been a contravention on the part of a licensee under a merchandise licence of the provisions of this section, apply to the railway tribunal for an order enjoining such licensee to desist from such contravention, and upon such application, the railway tribunal may, if satisfied that such contravention has taken place, make such order.

17.—Whenever the Minister grants a merchandise licence he may attach to such licence such conditions as he shall think proper and shall specify in such licence and in particular and without prejudice to the generality of the foregoing power, conditions in respect of all or any of the following matters, that is to say:—

Conditions of merchandise licences.

(a) the wages and conditions of employment of employees engaged in the operation of the vehicles used for the purposes of the licensee's business of merchandise road transport;

(b) the notification to and approval by the Minister of agreements or arrangements made in relation to such business by the licensee with other persons engaged in the transport of merchandise by rail, road, air, or water;

(c) the use, either exclusively or to a specified extent, of vehicles manufactured in whole or in part in Saorstát Éireann, and the maintenance thereof.

18.—(1) The Minister may on his own motion during the currency of a merchandise licence amend (whether by addition, omission or variation) in such manner as he thinks fit the conditions attached to such licence.

Amendment of conditions of a merchandise licence during its currency.

(2) Whenever the Minister proposes to amend, in exercise of the power conferred on him by the immediately preceding sub-section, the conditions attached to a merchandise licence he shall cause a notice to be served on the licensee specifying the amended conditions which are to attach to such licence and upon service of such notice the said amended conditions shall attach to such licence.

19.—(1) Every merchandise licence shall specify the date on which it commences and every such licence shall commence on the date so specified.

Commencement and duration of merchandise licences.

(2) Every merchandise licence shall (unless it previously lapses or is revoked under this Act and subject to any suspension under this Act) continue in force for a period of twelve months from the date on which it commenced and shall then expire unless it is renewed under this Act.

20.—(1) Every person who is the licensee under a merchandise licence which is in force (whether by virtue of the original grant or of a renewal of such licence) may, within the prescribed time

Application for renewal of merchandise licences.

and while such licence continues so in force, apply to the Minister for a renewal of such licence.

(2) Every application for the renewal of a merchandise licence shall be in the prescribed form and be made in the prescribed manner and shall contain the prescribed particulars. 5

(3) Every person who applies under this section for a renewal of a merchandise licence shall, when required by the Minister so to do, furnish to the Minister all such information as the Minister may require for the consideration of such application.

(4) The Minister may require any statement of fact made in 10 an application for the renewal of a merchandise licence or made to the Minister in response to a request for information under the next preceding sub-section of this section to be verified by the statutory declaration of some person having personal knowledge of the fact so stated. 15

(5) If any person fails to furnish any information or any verification which he is required by the Minister under this section to furnish, the Minister may, on the ground of such failure and without prejudice to any other power of refusal conferred on him by this Act, refuse the application in relation to which such 20 information or verification was so required.

Grants of renewals of merchandise licences.

**21.**—(1) The Minister may refuse an application for a renewal of a merchandise licence on one or more of the following grounds but on no other ground, that is to say:—

(a) on the ground that in his opinion there was, during the 25 currency of the licence or of the last renewal thereof, a breach of or a failure to observe or comply with one or more of the conditions attached to such licence;

(b) on the ground that in his opinion there was, during such currency, a breach of or a failure to comply with the 30 provisions of this Act or of the regulations made thereunder;

(c) on the ground that the licensee under such licence has during such currency been convicted of an offence (whether under this or any other Act) in relation to 35 the merchandise road transport business to which such licence relates or the vehicles used therein.

(2) Whenever the Minister grants a renewal of a merchandise licence, the Minister may amend (whether by addition, omission or variation) in such manner as he thinks proper the conditions 40 attached to such licence.

Duration of renewals of merchandise licences.

**22.**—Every renewal of a merchandise licence shall commence immediately upon the expiration of the licence or of the renewal of the licence (as the case may be) of which it is a renewal and shall (unless it previously lapses or is revoked under this Act, 45 and subject to any suspension under this Act) continue in force for a period of twelve months from the date on which it commenced.

Expiry of licence held by a shipping company.

**23.**—A merchandise licence which is held by a company which at the date of the grant or transfer to such company was a 50 shipping company shall cease to be in force on such company ceasing to be a shipping company.

Revocation of merchandise licences.

**24.**—(1) The Minister may at any time revoke a merchandise licence upon the application of the licensee thereunder.

(2) The Minister may at any time on his own motion and at his 55 absolute discretion revoke or suspend for such period as he shall think proper a merchandise licence on any ground on which he is authorised by this Act to refuse an application for the renewal of such licence.

(3) The Minister may at any time on his own motion and at his absolute discretion revoke a merchandise licence if he is satisfied that such licence was obtained by fraud or misrepresentation.

25.—(1) A merchandise licence shall not be transferable by the licensee or by operation of law to any other person.

Transfer of  
merchandise  
licences.

(2) Where the ownership of a merchandise road transport business has been transferred, whether by act of the parties or operation of law, from the licensee under the merchandise licence relating to such business to another person the following provisions shall have effect, that is to say:—

(a) if such licensee is not an authorised (merchandise carrying) company, the following provisions shall have effect, that is to say:—

(i) in case such person is an authorised (merchandise carrying) company, or a relative of such licensee or in case such person has become entitled to such business under a will or intestacy, the Minister shall, on the application of such person, transfer such licence to such person,

(ii) in any other case the Minister may, on the application of such person transfer if he so thinks proper such licence to such person;

(b) if such licensee is an authorised (merchandise carrying) company, the following provisions shall have effect, that is to say:—

(i) in case such person is an authorised (merchandise carrying) company, the Minister shall, on the application of such person, transfer such licence to such person,

(ii) in any other case such licence shall cease to be in force.

(3) Every application for the transfer of a merchandise licence under this section shall be in the prescribed form and contain the prescribed particulars.

(4) Where a merchandise licence is transferred under this section such licence shall be deemed to have been transferred as on the date on which the business to which such licence relates is transferred.

(5) For the purposes of this section each of the following persons and no other person shall be the relative of a licensee, that is to say, the husband of such licensee, the wife of such licensee, any person related by blood to such licensee in the first, second, or third degree, the husband of any person so related, and the wife of any person so related.

26.—Whenever the licensee under a merchandise licence dies, the following provisions shall have effect, that is to say:—

Death of licensee  
under  
merchandise  
licence.

(a) the merchandise road transport business to which such licence relates may be carried on under such licence until the happening of whichever of the following events first happens, that is to say—the grant of probate of the will or letters of administration of the personal estate of such licensee, or the expiration of such licence, or the expiration of three months from the death of such licensee;

(b) the said merchandise road transport business may, while such licence is in force, be carried on by the personal representative of such licensee until the expiration of six months from the death of such licensee or the expiration of such licence, whichever first happens;

(c) the personal representative of such licensee may apply to the Minister for a renewal or transfer (as the

circumstances may require) of such licence to himself and upon such application being made the following provisions shall have effect, that is to say:—

- (i) if such application is for a renewal, the Minister may refuse such application but only on a ground 5 or grounds upon which he would be authorised by this Act to refuse the application if such licensee had survived and had himself made the application,
- (ii) if such application is for a transfer, the Minister 10 shall grant such application.

Fees on the grant, etc., of merchandise licences.

27.—(1) There shall be paid to the Minister on every application under this Part of this Act for the grant, renewal, or transfer of a merchandise licence a fee of such amount as may be prescribed by regulations made by the Minister with the consent of the Minister for Finance, and the payment of such fee 15 (which shall be retained whether the application is or is not granted) shall be a condition precedent to the consideration of such application.

(2) Different fees may be prescribed in respect of grants, 20 renewals and transfers respectively of merchandise licences, and such fees may be of a fixed amount or of an amount calculated by reference to a scale graduated according to the number of mechanically propelled vehicles used by the licensee or the total unladen weights of such vehicles or otherwise. 25

Accounts and returns by licensees under merchandise licences.

28.—(1) The Minister may, by regulations made by him under this Act, prescribe the accounts to be kept by every person carrying on a merchandise road transport business under a merchandise licence and also the statements of accounts, returns of traffic, and other returns to be furnished periodically by every 30 such person to the Minister and the times and occasions at which such returns are to be so furnished.

(2) The Minister may, by the conditions attached to a merchandise licence, require the licensee under such licence to keep accounts or make returns differing (whether by addition, 35 omission, or variation) from the accounts or returns prescribed by regulations made under this Act, and where any such condition is attached to a merchandise licence, the said regulations shall have effect in respect of the licensee under such licence subject to such condition. 40

(3) The Minister may publish, as and when he thinks proper, all or any returns made to him under this section and also statistics compiled by him from such returns.

(4) Every person who shall fail to keep the accounts or make the returns which he is required by regulations made under this 45 Act or by a condition attached to a merchandise licence to keep or make shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds and, in the case of a continuing offence, a further fine not exceeding one pound for every day during which the 50 offence continues.

Registers to be kept by the Minister.

29.—(1) The Minister shall cause to be established and kept a register of all merchandise licences granted under this Part of this Act, and such register shall be in such form and contain such particulars as the Minister shall direct. 55

(2) The said register shall at all reasonable times be open to inspection by any person on payment of such fee not exceeding one shilling as shall from time to time be fixed by the Minister with the sanction of the Minister for Finance.

(3) Any person shall be entitled to obtain from the Minister 60 a copy of any entry in the said register on payment thereof of such fee, not exceeding sixpence for every folio or part of a folio of seventy-two words contained in such copy, as shall from time to time be fixed by the Minister with the sanction of the Minister for Finance. 65

(4) Every fee payable under this section shall be collected and accounted for in such manner as shall be prescribed by the Minister with the sanction of the Minister for Finance.

30.—(1) The licensee under a merchandise licence may apply  
5 at the vehicle plate issuing station specified in his licence to the Chief Superintendent of the *Gárda Síochána* within whose functional area such station is situate for the issue of a vehicle plate in respect of any mechanically propelled vehicle intended to be used by him for the purpose of the business authorised by  
10 such licence to be carried on.

(2) Upon receipt of an application under the immediately preceding sub-section, the Chief Superintendent of the *Gárda Síochána* to whom such application is made shall, subject to the provisions of this and the next following section, issue a vehicle  
15 plate to the applicant in respect of such vehicle.

(3) Where a vehicle plate issued to the licensee under a merchandise licence in respect of a particular mechanically propelled vehicle **has been lost, destroyed, or broken** or has become so defaced by wear or injury that all or any of the marks required  
20 by this section to be borne thereon are obliterated or illegible, the licensee under such licence may apply at the vehicle plate issuing station, at which such vehicle plate was issued, to the Chief Superintendent of the *Gárda Síochána* within whose functional area such station is situate for the issue of a new vehicle plate  
25 in respect of such vehicle, and thereupon the said Chief Superintendent, if he is satisfied that such first mentioned vehicle plate has been lost, destroyed, broken or so defaced and upon delivery to him of such vehicle plate (if not lost or destroyed), shall, subject to the provisions of this section, issue to the applicant a  
30 new vehicle plate bearing marks similar to those borne by such first mentioned vehicle plate.

(4) Every application under this section for a vehicle plate in respect of a particular mechanically propelled vehicle shall be in the prescribed form and shall be accompanied by the registration  
35 book which relates to such vehicle.

(5) A Chief Superintendent shall not issue a vehicle plate in respect of any mechanically propelled vehicle unless he is satisfied that such vehicle is duly licensed under section 13 of the Finance Act, 1920, as amended by subsequent enactments.

40 (6) There shall be paid on every application for a vehicle plate under this section to the Chief Superintendent of the *Gárda Síochána* to whom such application is made a fee of such amount as may be prescribed by regulations made by the Minister with the consent of the Minister for Finance and after consultation  
45 with the Minister for Justice, and the payment of such fee (which shall be retained whether the application is or is not granted) shall be a condition precedent to the consideration of such application.

(7) Every vehicle plate issued under this section shall be made  
50 of metal and be of the prescribed pattern and bear the prescribed marks thereon.

31.—(1) Where an application for the issue of a vehicle plate in respect of a lorry is made by the licensee (other than an authorised (merchandise carrying) company) under a merchandise (existing carrier's) licence, such plate shall not be issued—  
55

- (a) if there is no standard lorry weight for such licensee, or  
(b) in case there is a standard lorry weight for such licensee, if—

- 60 (i) the unladen weight of such lorry exceeds such standard lorry weight, or  
(ii) the result of such issue, if made, would be that the combined unladen weights of the lorries in respect of which vehicle plates are on issue to such licensee would exceed such standard lorry weight.

(2) Where an application for the issue of a vehicle plate in respect of a tractor is made by the licensee (other than an authorised (merchandise carrying) company) under a merchandise (existing carrier's) licence, such plate shall not be issued—

(a) if there is no standard tractor weight for such licensee, 5  
or

(b) in case there is a standard tractor weight for such licensee, if—

(i) the unladen weight of such tractor exceeds such standard tractor weight, or 10

(ii) the result of such issue, if made, would be that the combined unladen weights of the tractors in respect of which vehicle plates are on issue to such licensee would exceed such standard tractor weight. 15

(3) Whenever a vehicle plate issued to a licensee under a merchandise (existing carrier's) licence is surrendered by such licensee at the vehicle plate issuing station at which it was issued such vehicle plate shall be deemed for the purposes of this section no longer to be on issue to such licensee. 20

Delivery of  
vehicle plates  
in certain cases  
to Garda  
Síochána.

32.—(1) Where—

(a) a vehicle in respect of which a vehicle plate has been issued has been sold or ceases to be duly licensed under section 13 of the Finance Act, 1920, as amended by subsequent enactments, or 25

(b) the owner of a vehicle in respect of which a vehicle plate has been issued ceases to be lawfully entitled to carry on a merchandise road transport business,

the owner of such vehicle shall within three days after such sale or cesser deliver such vehicle plate to a member of the Garda Síochána at the vehicle plate issuing station at which such vehicle plate was issued. 30

(2) If any person fails or neglects to comply with this section such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding two pounds and a further fine not exceeding five shillings for every day during which such offence is continued. 35

Fraudulent use  
of vehicle  
plates.

33.—If any vehicle plate issued in respect of a particular mechanically propelled vehicle is affixed to any other mechanically propelled vehicle, the owner of such first mentioned mechanically propelled vehicle and also the owner of such other mechanically propelled vehicle (if he is not the same person as the owner of such first mentioned mechanically propelled vehicle) shall each be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. 40 45

Obligation to  
carry vehicle  
plate on vehicles  
carrying  
merchandise.

34.—(1) The vehicle plate issued under this Part of this Act in respect of a mechanically propelled vehicle shall be affixed to such vehicle in the prescribed place and manner and shall always be carried so affixed when such vehicle is used for the purpose of merchandise road transport. 50

(2) If any mechanically propelled vehicle is used for the purposes of merchandise road transport without having affixed thereto in the prescribed place and manner a vehicle plate issued under this Part of this Act in respect of such vehicle, or with such vehicle plate so defaced by wear or injury that the marks required by this Act to be borne thereon are obliterated or illegible, the owner of such vehicle and also the driver thereof shall each be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. 55 60

35.—(1) Any member of the *Gárda Síochána* may, at any time and in any place, inspect and examine any lorry or tractor and for that purpose may do all or any of the following things, that is to say :—

Inspection of vehicles carrying merchandise.

- 5 (a) enter into any place in which such lorry or tractor is;  
(b) if such lorry or tractor is in motion, require it to stop;  
(c) require the driver of such lorry or tractor to drive it forthwith to a convenient place indicated by such member for such inspection and examination.

10 (2) Every person who—

(a) obstructs or interferes with a member of the *Gárda Síochána* in the exercise of any power conferred by this section, or

15 (b) being the driver of a lorry or tractor in motion, fails to stop it when required by a member of the *Gárda Síochána* under this section so to do, or

(c) being the driver of a lorry or tractor fails to comply with a requirement made by a member of the *Gárda Síochána* under this section in relation to such lorry or tractor,

20 shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

36.—(1) On and after the appointed day it shall not be lawful for any person to enter into an agreement for the carriage for reward of merchandise by any other person unless such other person is a licensee under a merchandise licence or such merchandise is to be carried exclusively within an exempted area.

Prohibition of contracts for carriage of merchandise with unlicensed person.

(2) If any person acts in contravention of this section such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

37.—No action shall lie under sub-section (1) of section 1 of the Public Roads (Ireland) Act, 1911, against the licensee under a merchandise licence in respect of any damage caused to a public road as the result of such licensee carrying on the business authorised by such licence.

Amendment of the Public Roads (Ireland) Act, 1911.

### PART III.

#### CHARGES FOR CARRIAGE OF MERCHANDISE.

38.—(1) Whenever—

Classification of merchandise.

40 (a) a merchandise licence is granted to an authorised (merchandise carrying) company or a shipping company or to an existing carrier, whose merchandise road transport business is owned or controlled directly or indirectly by an authorised (merchandise carrying) company or a shipping company, or

45 (b) a merchandise licence is transferred to an authorised (merchandise carrying) company or a shipping company, from any person other than an authorised (merchandise carrying) company, a shipping company, or an existing carrier whose merchandise road transport business is owned or controlled directly or indirectly by an authorised (merchandise carrying) company or a shipping company, or

50 (c) a merchandise road transport business carried on under a merchandise licence becomes owned or controlled directly or indirectly by an authorised (merchandise carrying) company or a shipping company,

55 the licensee under such licence shall, within three months or such longer period as the Minister may allow after such grant or transfer or after such business becomes owned or

controlled directly or indirectly by an authorised (merchandise carrying) company or a shipping company (as the case may be) submit to the railway tribunal a proposal for the classification of the merchandise specified in such licence for the purposes of the application to such merchandise of rates of charges under this Part of this Act. 5

(2) Whenever a proposal for the classification of merchandise is made to the railway tribunal by the licensee under a merchandise licence in pursuance of this section the railway tribunal shall consider and, after hearing all parties interested who are desirous of being heard, determine the classification of merchandise applicable to such licensee. 10

(3) In exercising the powers conferred on them by this section the railway tribunal shall have power to divide any classification determined by them into such number of classes containing such descriptions of merchandise as they think fit, and in determining the class in which any particular merchandise shall be placed they shall, in addition to all other relevant circumstances, have regard to the value, the bulk in comparison to weight, the risk of damage and the cost of handling such merchandise, and the saving of cost of handling such merchandise which may result when such merchandise is forwarded in large quantities, but so nevertheless, that any classification as a whole shall be on broad simple lines suitable to the circumstances and calculated to promote the best interests of the merchandise road transport industry. 15 20 25

**Schedules of charges.**

**39.**—(1) Where the railway tribunal has determined a classification of merchandise applicable to the licensee under a merchandise licence, such licensee shall, within three months or such longer period as the Minister may allow after such determination, submit to the railway tribunal a schedule of charges proposed to be made by such licensee according to the classification of merchandise so determined. 30

(2) The railway tribunal shall consider every schedule of proposed charges submitted to them under this section by the licensee under a merchandise licence and any objections thereto which may be lodged within the appointed time and in the appointed manner, and after hearing all parties interested and who are desirous of being heard shall settle the said schedule and fix the date on which the same is to come into force and as from the said date the said schedule of charges as so settled shall subject to amendment by the railway tribunal under this Part of this Act be the schedule of charges in force for the licensee under such licence. 35 40

**Variation of classification of merchandise.**

**40.**—(1) The railway tribunal shall on the application of the licensee under a merchandise licence concerned or any representative body of traders or of any body of persons representative of a trade or a locality have power to amend (whether by variation addition or omission), after hearing all parties interested and desirous of being heard, any classification of merchandise determined by them under this Part of this Act. 45 50

(2) Whenever the railway tribunal amend any classification of merchandise applicable to the licensee under a merchandise licence they shall also (if necessary) amend the schedule of charges for such licensee and fix the date on which such schedule as so amended is to come into force, and as from the said date the said schedule of charges as so amended shall, subject to amendment by the railway tribunal under this Part of this Act, be the schedule of charges in force for the licensee under such licence. 55 60

**Variation of schedule of charges.**

**41.**—The licensee under a merchandise licence in relation to whom a schedule of charges is in force or any representative body of traders or any person who may obtain a certificate (which the Minister is hereby authorised to grant) from the Minister that he is a proper person for the purpose, shall be entitled at any time to apply to the railway tribunal to amend 65

such charges or any of them or any conditions relative thereto, and, if such licensee or body of traders or person, as the case may be, proves to the satisfaction of the railway tribunal that such charges or any of them ought to be amended, the railway tribunal shall make such amendments as they think fit, and shall fix the date on which the amended charges or conditions shall come into force, and as from the said date the said schedule as so amended shall, subject to further amendment by the railway tribunal, be the schedule of charges in force for the licensee under such licence.

42.—In settling or amending under this Part of this Act a schedule of charges in respect of a licensee under a merchandise licence, the railway tribunal shall, as far as may be practicable, so settle or amend such schedule that the charges appearing therein or fixed thereby shall be such as will, having regard to the estimated volume of traffic, yield a revenue sufficient to pay the cost of carrying on the business authorised by such licence efficiently and economically and to give a reasonable return on the capital expenditure attributable to such business.

Provisions in relation to settlement and amendment of schedules of charges.

43.—(1) Every licensee under a merchandise licence shall furnish to the railway tribunal within twenty-eight days after being required by the railway tribunal so to do, such information as the railway tribunal may require and may specify in such requisition for the purpose of settling or amending a classification of merchandise applicable to such licensee under a merchandise licence or settling or amending a schedule of charges for such licensee.

Duty of licensees to furnish information to the Railway Tribunal.

(2) If any licensee under a merchandise licence fails to comply with this section, such licensee shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds, and in the case of a continuing offence to a further fine not exceeding ten pounds for every day during which the offence is committed.

44.—Whenever the railway tribunal determine or amend a classification of merchandise applicable to the licensee under a merchandise licence or settle or amend a schedule of charges for the licensee under a merchandise licence, the following provisions shall have effect, that is to say:—

Publication of classification of merchandise and schedule of charges.

(a) such licensee shall within the appointed time cause such classification and schedule to be published in the appointed manner, and

(b) such licensee shall, upon payment of the appointed fee, deliver to any person who applies therefor at the appointed place a copy of such classification or schedule.

45.—(1) Whenever a schedule of charges is in force for the licensee under a merchandise licence, the charges appearing in or fixed by such schedule shall be the maximum charges which such licensee shall be entitled to make for all services rendered in respect of which charges are fixed.

Maximum charges.

(2) If the licensee under a merchandise licence for whom a schedule of charges is in force, charges for any service rendered in respect of which charges appear in or are fixed by such schedule a charge in excess of the charges appearing in or fixed by such schedule, such licensee shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

#### PART IV.

##### PROVISIONS IN RELATION TO THE RAILWAY TRIBUNAL AND APPLICATIONS TO THE RAILWAY TRIBUNAL BY CERTAIN PUBLIC BODIES.

46.—(1) References in section 17 of the Railways Act, 1924 (No. 29 of 1924), as amended by the Railways (Amendment) Act, 1929 (No. 23 of 1929) and the Railways (Miscellaneous) Act, 1924.

Application of certain sections of the Railways Act, 1924.

Act, 1932 (No. 3 of 1932), to Part III of the said Railways Act, 1924, shall be construed as including references to Part III of this present Act and the said section shall have effect accordingly.

(2) The expression "this Act" whenever it occurs in sub-sections (1) and (2) of section 18 of the said Railways Act, 1924, shall be construed as meaning that Act or this present Act and the said sub-sections shall have effect accordingly. 5

Procedure and fees.

47.—(1) The railway tribunal may, with the approval of the Minister and the Chief Justice, make general rules governing their procedure and practice and generally for carrying into effect their powers and duties under this Act, and such rules may, amongst other things, provide for— 10

- (a) the awarding of costs by the tribunal;
- (b) the reference of any question to a member or officer of the tribunal, or any other person appointed by them, for report after holding an inquiry locally;
- (c) enabling the tribunal to dispose of any proceedings before them, notwithstanding that in the course of the proceedings there has been a change in the persons sitting as members of the tribunal; 20
- (d) the right of audience before the tribunal, provided that any party shall be entitled to be heard in person, or by a representative in the regular employment of the party duly authorised in writing, or by counsel or solicitor; 25
- (e) the number of members of the tribunal who shall form a quorum for the hearing of different classes of cases;
- (f) any matter or thing referred to in Part III of this Act as appointed. 30

(2) There shall be charged by the railway tribunal and paid in respect of proceedings before them under this Act and in respect of acts done by them or any of their officers in the execution of their respective powers and duties under this Act such fees as shall be fixed by orders made by the Minister on the recommendation of the railway tribunal and with the sanction of the Minister for Finance. 35

(3) The Minister shall give to the railway tribunal such assistance as the tribunal may require, and shall place at the disposal of the tribunal any information in his possession which he may think relevant to the matter before the tribunal, and the Minister or any officer of the Minister authorised by him shall be entitled to appear and be heard in any proceedings before the tribunal. 40

(4) The railway tribunal shall annually make a report to the Minister of their proceedings under this Act, and the Minister shall lay such report before each House of the Oireachtas. 45

Appeals.

48.—(1) No appeal shall lie from any decision of the railway tribunal under this Act on a question of fact or any question regarding the locus standi of any person appearing or claiming to be heard before them. 50

(2) Subject to the immediately preceding sub-section, an appeal shall lie from every decision of the railway tribunal under this Act to the Supreme Court, but no such appeal shall be brought except in conformity with rules of court of the Supreme Court. 55

(3) On the hearing of an appeal from the railway tribunal under this section the Supreme Court may draw all such inferences as are not inconsistent with the facts expressly found by the railway tribunal, and are necessary for determining the questions raised on the appeal, and shall have all such powers for that purpose as if the appeal were an appeal from a judgment of the High Court, and may make any order which the railway tribunal could have made, and also any such further or other order as may 60

be just, and the costs of and incidental to an appeal shall be in the discretion of the Supreme Court, but neither the railway tribunal nor any member or officer thereof shall be liable to any costs by reason or in respect of any appeal.

- 5     **49.**—(1) Where under this Act an application to the railway tribunal may be made by a representative body of traders or by a body of persons representative of trade or a locality, the application may be made by any of the following authorities or bodies:—

Provision for applications by public authorities etc., in certain cases.

- 10         (a) any harbour board, or the council of any county or borough or district; or
- (b) any chamber of commerce or association representative of shipping, agriculture, traders, freighters or transport undertakers which may obtain a certificate from the
- 15         Minister that it is a proper body to make such an application.

(2) Subject as in this section provided, no company, body, or person, not directly interested in the subject-matter of any application shall be entitled to make such application.

- 20     (3) Any authority or body as aforesaid may appear in opposition to any application, or submission in any case where such authority, or the persons represented by them, appear to the Minister to be likely to be affected by the decision on any such application, or submission.

- 25     (4) The Minister may, if he thinks fit, require as a condition of giving a certificate under this section, that security be given in such manner and to such amount as he thinks necessary, for costs which may be incurred.

- 30     (5) Any certificate granted under this section shall, unless withdrawn, be in force for twelve months from the date on which it was given.

- (6) Any expenses incurred by any such authority in or incidental to any such application or opposition shall be defrayed out of the rate or fund out of which the expenses of the authority
- 35     in the execution of their ordinary duties are defrayed.

## PART V.

### COMPULSORY TRANSFER OF CERTAIN MERCHANDISE LICENSES AND PASSENGER LICENCES, AND RESTRICTIONS ON OPERATION OF CERTAIN MERCHANDISE LICENCES.

- 40     **50.**—(1) This Part of this Act applies to every merchandise (existing carrier's) licence, other than a merchandise (existing carrier's) licence held by an authorised (merchandise carrying) company or a shipping company or by a person whose merchandise road transport business is owned or controlled directly or indirectly by an authorised (merchandise carrying) company or a shipping company.
- 45     Merchandise (existing carriers) licences and annual passenger licences to which Part V applies.
- (2) This Part of this Act applies to every passenger licence, other than a passenger licence held by an authorised (passenger carrying) company or by a person whose passenger road service
- 50     is owned or controlled directly or indirectly by an authorised (passenger carrying) company.

Application for orders transferring etc., certain merchandise licences and passenger licences.

- 51.—(1) Any authorised (merchandise carrying) company may send an application to the Minister requesting him to make—
- (a) an order under this Part of this Act transferring a particular merchandise (existing carrier's) licence to which this Part of this Act applies to such company, or 5
  - (b) an order under this Part of this Act reducing the classes of merchandise specified in a particular merchandise (existing carrier's) licence to which this Part of this Act applies, or 10
  - (c) an order under this Part of this Act reducing the area of operation specified in a particular merchandise (existing carrier's) licence to which this Part of this Act applies. 15
- (2) Any authorised (passenger carrying) company may at any time (other than during the period commencing at the expiration of one year after the date of the passing of this Act and ending at the expiration of three years after the said date) send an application to the Minister requesting him to make an order transferring a particular passenger licence to which this Part of this Act applies to such company. 20
- (3) The licensee under a merchandise (existing carrier's) licence to which this Part of this Act applies may send an application to the Minister requesting him to make an order under this Part of this Act transferring such licence to a specified authorised (merchandise carrying) company. 25
- (4) The licensee under a passenger licence to which this Part of this Act applies may send an application to the Minister requesting him to make an order under this Part of this Act transferring such licence to a specified authorised (passenger carrying) company. 30
- (5) Every application under this section shall be in the prescribed form and contain the prescribed particulars.
- (6) Whenever an application is sent to the Minister under this section the following provisions shall have effect, that is to say:—
- (a) the Minister shall publish in the *Iris Oifigiúil* notice of such application; 35
  - (b) any person may within fourteen days after such publication make representations to the Minister in relation to such application.
- (7) There shall be paid to the Minister on every application under this section a fee of such amount as may be prescribed by regulations made by the Minister with the consent of the Minister for Finance, and the payment of such fee (which shall be retained whether the application is or is not granted) shall be a condition precedent to the consideration of such application. 40 45

Making of orders under Part V.

- 52.—(1) Whenever an application is made to the Minister under the immediately preceding section in relation to a merchandise (existing carrier's) licence to which this Part of this Act applies the Minister may, subject to the provisions of this section—
- (a) in case such application is for an order transferring such licence to a particular authorised (merchandise carrying) company, make an order (in this Act referred to as a transfer order) transferring such licence to such company; or 50 55
  - (b) in case such application is for an order reducing the classes of merchandise specified in such licence, make an order (in this Act referred to as a reduction order) reducing such classes to the classes of merchandise specified in such order; or 60
  - (c) in case such application is for an order reducing the area of operation specified in such licence, make an order (in this Act also referred to as a reduction order) reducing such area to the area specified in such order.

(2) Whenever an application is made to the Minister under the immediately preceding section for an order transferring a passenger licence to which this Part of this Act applies to a particular authorised (passenger carrying) company, the Minister  
5 may, subject to the provisions of this section, make an order (in this Act also referred to as a transfer order) transferring such licence to such company.

(3) The Minister shall not make an order under this section until the expiration of fourteen days after the date of the  
10 publication in the *Iris Oifigiúil* of notice of the application in pursuance of which such order is made and until he has considered any representations made in relation to the application.

(4) The Minister shall not make an order under this section unless he is of opinion that in the public interest it is expedient  
15 that such order should be made.

53.—(1) Whenever the Minister makes a transfer order transferring a merchandise (existing carrier's) licence to an authorised (merchandise carrying) company or a transfer order transferring a passenger licence to an authorised (passenger carrying)  
20 company, the licence transferred by such order shall as on the date specified in such order be transferred to such authorised (merchandise carrying) company or authorised (passenger carrying) company (as the case may be).

Operation of transfer orders and reduction orders.

(2) Whenever the Minister makes a reduction order reducing  
25 the classes of merchandise specified in a merchandise (existing carrier's) licence, such licence shall as from the date specified in such order authorise the licensee to carry on a merchandise road transport business in respect of the classes of merchandise specified in such order and no other classes of merchandise.

(3) Whenever the Minister makes a reduction order restricting  
30 the area of operation specified in a merchandise (existing carrier's) licence, such licence shall as from the date specified in such order authorise the licensee to carry on a merchandise road transport business in the area specified in such order and no other area.

54.—Whenever a transfer order is made in relation to a merchandise (existing carrier's) licence or a passenger licence or a reduction order is made in relation to a merchandise (existing carrier's) licence, compensation shall be payable to the person who was the licensee under such licence immediately  
40 preceding the making of such order by, in the case of a transfer order, the person to whom such licence is by virtue of such transfer order transferred or, in the case of a reduction order, by the person upon whose application such reduction order was made, and the measure of such compensation shall be the  
45 pecuniary loss and expense (if any) which such first mentioned person sustains or incurs or will sustain or incur by reason of such order and which is the direct consequence of such order.

Compensation on transfer etc. of licences.

55.—The amount of compensation payable to a licensee under the immediately preceding section shall, in default of agreement  
50 between such licensee and the person liable under this Part of this Act to pay such compensation, be determined and fixed by an arbitrator appointed under this Part of this Act and the decision of such arbitrator shall be final and conclusive.

Determination of compensation.

56.—(1) Whenever the Minister makes an order under this Part of this Act in relation to a merchandise (existing carrier's) licence or a passenger licence, the Minister shall unless the licensee under such licence and the person liable under this Part of this Act to pay compensation to such licensee in respect of such order agree upon the amount of such compensation, request  
55 the Reference Committee to appoint a fit and proper person (in this Part of this Act referred to as an arbitrator) to fix the amount of such compensation and the Reference Committee shall comply with such request.

Appointment of arbitrator.

(2) In this section the expression "the Reference Committee" means a committee consisting of the Chief Justice, the President of the High Court and an officer of the Minister to be appointed by the Minister.

Expenses of  
licensees in  
relation to  
arbitrations.

57.—(1) Where an arbitrator in any arbitration before him for fixing compensation under this Part of this Act awards compensation, such arbitrator may, if he so thinks fit, award to the person entitled to such compensation, in addition to such compensation, such sum as he thinks reasonable to cover the expenses of such person in relation to such arbitration, and any sum so awarded shall be payable by the person liable under this Part of this Act to pay such compensation. 5 10

(2) Where—

(a) a transfer order or a reduction order in relation to a merchandise (existing carrier's) licence is made on the application of an authorised (merchandise carrying) company, or a transfer order in relation to a passenger licence is made on the application of an authorised (passenger carrying) company, and 15

(b) an arbitrator in arbitration before him for fixing the compensation payable under this Part of this Act in respect of such order to the licensee under such licence does not award compensation, 20

such arbitrator may, if he so thinks fit, award to such licensee such sum as he thinks reasonable to cover the expenses of such licensee in relation to such arbitration, and any sum so awarded shall be payable by the company upon whose application such order was made. 25

Recovery of  
amount of  
award.

58.—Where an award is made by an arbitrator under this Part of this Act, the amount of such award may be recoverable by the person entitled under this Part of this Act to payment of such amount from the person liable under this Part of this Act to pay such amount as a simple contract debt in a court of competent jurisdiction. 30

Remuneration of  
arbitrator.

59.—There shall be paid to an arbitrator in respect of every arbitration before him for fixing compensation under this Part of this Act by, in case such arbitrator awards compensation, the person liable under this Part of this Act to pay such compensation or, in case such arbitrator does not award compensation, the person who, if compensation had been awarded in such arbitration, would have been liable under this Part of this Act to pay such compensation such remuneration as the Minister, with the consent of the Minister for Finance, may appoint, and the amount of such remuneration shall be recoverable by such arbitrator as a simple contract debt in a court of competent jurisdiction. 35 40

Powers of  
arbitrator.

60.—(1) Every arbitrator appointed under this Part of this Act shall have power by notice in writing signed by him to summon witnesses and to require the production of books and other documents, and any person so summoned who fails to attend or refuses to give evidence before such arbitrator and any person who fails or refuses to produce any book or other document the production of which is so required of him shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. 45 50

(2) Evidence given before an arbitrator appointed under this Part of this Act shall, if such arbitrator requires, be given on oath (which oath such arbitrator is hereby empowered to administer) and any person who gives false evidence before any such arbitrator shall be guilty of perjury and punishable accordingly. 55

## PART VI.

### COMPENSATION TO CERTAIN EX-EMPLOYEES OF LICENSEES UNDER MERCHANDISE (EXISTING CARRIER'S) LICENCES AND ANNUAL PASSENGER LICENCES.

5 **61.**—(1) This part of this Act applies to every merchandise Merchandise  
(existing carrier's) licence, other than a merchandise (existing (existing  
carrier's) licence held by an authorised (merchandise carrying) carriers)  
company or a shipping company or by a person whose merchandise licences and  
road transport business is owned or controlled directly or annual passenger  
10 indirectly by an authorised (merchandise carrying) company or a licence to  
shipping company. which Part VI  
applies.

(2) This Part of this Act applies to every passenger licence,  
other than a passenger licence held by an authorised (passenger  
carrying) company or by a person whose passenger road service  
15 is owned or controlled directly or indirectly by an authorised  
(passenger carrying) company.

**62.**—In this Part of this Act—  
the expression “ transferred ” means—

Definitions in  
relation to Part  
VI.

20 (a) in relation to a merchandise (existing carrier's) licence  
to which this Part of this Act applies, transferred  
under Part II of this Act or under Part V of this Act,  
and

(b) in relation to a passenger licence to which this Part of  
this Act applies, transferred under section 18 of the  
25 Act of 1932 or under Part V of this Act;

the expression “ the critical date ” means—

30 (a) in relation to a licence transferred under section 18 of  
the Act of 1932 or under Part II of this Act, the date  
as from which such transfer is deemed to have been  
made;

(b) in relation to a licence the subject of a transfer order or  
a reduction order, the date of the application for such  
order.

**63.**—Where—

Compensation to  
ex-employees of  
certain licensees.

35 (1) a merchandise (existing carrier's) licence to which this  
Part of this Act applies is transferred to an authorised  
(merchandise carrying) company, or

(2) a passenger licence to which this Part of this Act applies  
is transferred to an authorised (passenger carrying)  
40 company, or

(3) a reduction order is made in respect of a merchandise  
(existing carrier's) licence to which this Part of this  
Act applies,

the following provisions shall have effect, that is to say:—

45 (a) compensation shall be payable by the company to which  
such licence is transferred or upon whose application  
such reduction order is made (as the case may be) to  
every person who complies with the following con-  
ditions, that is to say:—

50 (i) was on the critical date employed whole-time by  
the licensee under such licence in the operation  
of the vehicles used for the purposes of the  
business authorised by such licence to be carried  
on and was so employed continuously for a period  
55 of five years ending on the day preceding the  
critical date and was during such period ordinarily  
resident in Saorstát Éireann, and

- (ii) was, within six months after the critical date, dismissed (otherwise than for inefficiency or misconduct) by such licensee, and
- (iii) is not offered employment with the said company or, being offered such employment, either refuses 5 on reasonable grounds to accept such employment, or, if accepting such employment, is dismissed (otherwise than for inefficiency or misconduct) by the said company within two years from the date on which such employment commenced; 10
- (b) the compensation payable to such person shall be a gratuity calculated on the basis of one-twelfth of the amount of his annual remuneration for every completed year before the critical date during which he was continuously employed whole-time by such licensee in the operation of the vehicles used for the purposes of the business authorised by such licence to be carried on; 15
- (c) the annual remuneration of such person shall be taken 20 to be the total remuneration and emoluments paid by such licensee to such person during the calendar year next preceding the critical date;
- (d) for the purpose of this section employment shall be deemed to be continuous notwithstanding any break 25 in such employment due solely to illness or labour disputes.

Recovery of compensation under Part VI.

64.—Where a person is entitled to compensation under this Part of this Act such compensation shall be a debt due to such person by the person liable under the said Part to pay such compensation and shall be recoverable as a simple contract debt in a court of competent jurisdiction. 30

## PART VII.

### AMENDMENT OF CERTAIN ENACTMENTS.

Definitions in relation to Part VII.

65.—In this Part of this Act— 35

the expression “seasonal passenger licence” means an annual passenger licence in respect of a specified part of a year only; the word “season” in relation to a seasonal passenger licence means the specified part of a year to which such licence relates.

Amendment of meaning of expression “passenger road service” in Act of 1932.

66.—(1) The definition of the expression “passenger road service” contained in section 2 of the Act of 1932 is hereby amended by the insertion therein of the words “or otherwise” after the words “specified route”, and the said Act shall be construed and have effect with due regard to the modification of the meaning of the said expression effected by the said amendment. 40 45

(2) A service of one or more mechanically propelled vehicles which would but for this sub-section be a passenger road service within the meaning of the Act of 1932 shall not be a passenger road service for the purposes of that Act where both the following conditions are complied with, that is to say:— 50

- (a) each of such vehicles is engaged in carrying mails, within the meaning of the Act of 1932, under contract with the Minister for Posts and Telegraphs, and
- (b) each of such vehicles has a seating capacity for not more than five persons (excluding the driver). 55

67.—Notwithstanding anything in sections 13 or 16 of the Act of 1932, every seasonal passenger licence which (whether by virtue of the original grant or of a renewal of such licence) is in force at the date of the passing of this Act and also on the 31st day of October, 1933 shall, unless it is previously revoked under the Act of 1932 and subject to any suspension under that Act, continue in force until the first day of the season to which such licence relates next following the said 31st day of October, 1933, and shall then expire unless it is renewed by the Minister under the Act of 1932.

Extension of duration of passenger licences in force on 31st October, 1933.

68.—(1) Every seasonal passenger licence granted after the passing of this Act shall commence on the first day of the season to which it relates next following the grant thereof.

Commencement and duration of future seasonal passenger licences.

(2) Every seasonal passenger licence granted after the passing of this Act shall (unless it is previously revoked under the Act of 1932 and subject to any suspension under that Act) continue in force for a period of twelve months from the date on which it commenced and shall then expire unless it is renewed under the Act of 1932.

(3) Section 13 of the Act of 1932 shall cease to apply in relation to seasonal passenger licences granted after the passing of this Act.

69.—(1) Every renewal granted after the passing of this Act of a seasonal passenger licence shall commence immediately upon the expiration of the licence or of the last renewal of the licence (as the case may be) of which it is a renewal and, unless it is previously revoked under the Act of 1932 and subject to any suspension under that Act, continue in force for a period of twelve months from the date of such commencement.

Duration of renewals of future seasonal passenger licences.

(2) Section 16 of the Act of 1932 shall cease to apply in relation to renewals of seasonal passenger licences where the renewal is made after the date of the passing of this Act.

70.—(1) The Minister may on his own motion during the currency of a passenger licence amend (whether by addition, omission or variation) in such manner as he thinks fit the conditions attached to such licence.

Amendment of conditions of an annual passenger licence during its currency.

(2) Whenever the Minister proposes to amend, in exercise of the power conferred on him by the immediately preceding subsection, the conditions attached to a passenger licence he shall cause a notice to be served on the licensee specifying the amended conditions which are to attach to such licence and upon service of such notice the said amended conditions shall attach to such licence.

71.—The Minister may at any time on his own motion and at his absolute discretion revoke a passenger licence if he is satisfied that such licence was obtained by fraud or misrepresentation.

Revocation of passenger licences.

72.—Where the ownership of a passenger road service has been transferred from the licensee under the passenger licence relating to such service to another person and the Minister has under section 18 of the Act of 1932 transferred such licence to such person, such licence shall be deemed to have been transferred to such person as on the date of the transfer of such ownership.

Date of transfer of passenger licences.

73.—A certificate purporting to be signed by an officer of the Minister and to certify that on a specified day or days or during the whole of a specified period a specified person was not the holder of a passenger licence authorising him to carry on a specified passenger road service shall, without proof of the signature of the person purporting to sign such certificate or that he was an officer of the Minister, be evidence until the contrary is proved of such of the matters aforesaid as are purported to be certified in and by such certificate.

Evidence.

Amendment of  
the Railways Act,  
1924, and the  
Railways  
(Miscellaneous)  
Act, 1932.

74.—(1) Sub-section (4) of section 53 of the Railways Act, 1924 (No. 29 of 1924), and sub-section (2) of section 18 of the Railways (Miscellaneous) Act, 1932 (No. 3 of 1932), shall cease to have effect in relation to every business to which this section applies but nevertheless such business shall continue to be another source of revenue within the meaning of sub-section (1) of the said section 53. 5

(2) In any review under section 54 of the Railways Act, 1924, the railway tribunal shall take into consideration the manner in which every business to which this section applies is carried on and may take into account the revenue which, in the opinion of the tribunal, should be produced by the efficient and economical management of such business. 10

(3) This section applies to every business authorised by a merchandise licence to be carried on where the holder of such licence is the Great Southern Railways Company or a person whose merchandise road transport business is owned or controlled directly or indirectly by the Great Southern Railways Company. 15



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BILLE UM IOMPAR AR BHOITHRE 1933.

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ROAD TRANSPORT BILL, 1933.

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BILLE

*dá ngairmtear*

Acht chun socruithe bhreise agus fheabhsa do dhéanamh chun iompair phaisnéirí, earraí ceannaíochta agus postanna de bhóthar do rialáil agus do stiúradh.

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BILL

*entitled*

An Act to make further and better provision for the regulation and control of the carriage of passengers, merchandise and mails by road.

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*Rithte ag dhá Thigh an Oireachtais, 9adh Meitheamh, 1933.*

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*Passed by both Houses of the Oireachtas, 9th June, 1933.*

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BAILE ATHA CLIATH:  
FOILLSITHE AG OIFIG AN tSOLATHAIR.

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