

# DÁIL ÉIREANN.

## AN BILLE IOMPAIR (Uimh. 2), 1944—TUARASCAIL. TRANSPORT (No. 2) BILL, 1944—REPORT.



### *Leasuithe.*

### *Amendments.*

1. In page 7, section 2 (1), to delete lines 36 to 42.—Aire Tionnseail agus Tráchtála.
2. In page 9, section 10 (3), line 45, to delete the words " or agreement ".—Aire Tionnseail agus Tráchtála.
3. In page 9, section 10 (3), line 45, to insert after the word " sell " the words " , with the consent of the Minister, ".—Aire Tionnseail agus Tráchtála.
4. In page 9, before section 10 (4), line 47, to insert the following new sub-section :—

" ( ) The Company may—

  - (a) carry on any hotel which was, immediately before the establishment date, carried on by a dissolved company ;
  - (b) carry on a hotel in the vicinity of the route of any of its transport services and for that purpose acquire any interest in land and (if necessary) erect buildings thereon ;
  - (c) do all such things in relation to its hotels as might be done by an individual ;
  - (d) dispose of any of its hotels and of any interest in any land held by it in connection with its hotels."

—Aire Tionnseail agus Tráchtála.
  5. In page 9, section 10 (4), between lines 47 and 48, to insert the words " the word ' hotel ' includes a restaurant, refreshment rooms and similar undertakings ".—Aire Tionnseail agus Tráchtála.
  6. In page 10, section 12, after line 6, to add the following new sub-section :—

" (2) On the establishment date every person who immediately before the establishment date was an officer or servant of a dissolved company shall, by virtue of this section, be transferred to and become an officer or servant (as the case may be) of the Company."

—William Davin, Michael J. Keyes.
  7. In page 11, at the end of section 16, line 64, to add the following sub-section :—

" (2) In calculating, for the purposes of sub-section (1) of this section, the total amount of debenture stock (including substituted debenture stock) created and issued, account shall be taken of any debenture stock which has been redeemed."

—Aire Tionnseail agus Tráchtála.
  8. In page 16, section 36 (3), line 49, to delete the words " some daily newspaper published in Dublin " and to insert the words " each of the daily morning newspapers for the time being published in Dublin or in Cork. "—Aire Tionnseail agus Tráchtála.

9. In page 17, before section 39 (4), line 25, to insert the following new sub-section :—
- “ ( ) Whenever the Minister appoints a person to be Chairman, he shall, as soon as may be, lay before each House of the Oireachtas a statement setting out that person’s name, his term of office and the conditions upon which he is to hold office.”  
—Aire Tionnseail agus Tráchtála.
10. In page 17, before section 39 (8), line 38, to insert the following new sub-section :—
- “ ( ) (a) Every person appointed to be Chairman shall, within three months of his appointment, absolutely sell or otherwise dispose of all common stock which he shall at the time of his appointment own or be interested in for his own benefit;
- (b) if and whenever any common stock shall come to or become vested in the Chairman by will or succession for his own benefit, he shall, within three months after it shall have so come to or become vested in him, absolutely sell or otherwise dispose of it or his interest therein;
- (c) the Chairman shall not for his own benefit purchase, take or become interested in any common stock.”  
—Aire Tionnseail agus Tráchtála.
11. In page 17, before section 39 (9), line 45, to insert the following new sub-section :—
- “ Whenever the Minister gives a direction under *sub-section (8)* of this section, he shall, as soon as may be, lay before each House of the Oireachtas a copy of the direction.”  
—Aire Tionnseail agus Tráchtála.
12. In page 18, section 40 (1), line 6, after the word “ Board ” to insert the words “ other than the Chairman ”.—  
William Davin, James Larkin (Junior).
13. In page 18, to delete section 40 (3), lines 14 to 18, and substitute the following sub-section :—
- “ (3) The remuneration (which shall be by way of fixed salary and not otherwise) of a managing director of the Company shall from time to time be fixed by the Board.”  
—Aire Tionnseail agus Tráchtála.
14. In page 19, section 43, line 26, to delete the words “ closing of railway lines ”.—William Davin, James Larkin (Junior).
15. In page 19, section 43 (1), lines 26 and 27, to delete the words “ or other economic cause ”.—Martin O’Sullivan, Michael J. Keyes.
16. In page 19, section 43 (2), line 54, to delete the words “ as is reasonable ” and substitute the words “ as shall be determined by the standing arbitrator appointed under this section ”.—  
Martin O’Sullivan, Michael J. Keyes.
17. In page 20, section 43, line 5, before sub-section (5), to insert the following sub-section :—
- “ (5) Any person who is in receipt of an annual sum by way of compensation under this section may, within one year from the date on which the annual sum is fixed, apply to the Company to commute not more than one-fourth of the annual sum by the payment of a capital sum, and thereupon the following provisions shall have effect :—
- (a) the Company shall not unreasonably refuse the application;
- (b) if the Company refuses the application the applicant may, within one month after the Company has notified

the applicant of such refusal, appeal to the standing arbitrator, who shall hear and determine the appeal, and the decision of the standing arbitrator shall be final and conclusive;

- (c) where the Company grants the application or, on the refusal of the application by the Company, the standing arbitrator, on appeal, decides it should be granted—
- (i) the Company shall, after the capital sum to be paid by way of commutation has been calculated, inform the applicant of the amount thereof and the applicant may, within one month after being so informed, withdraw his application,
  - (ii) if the applicant does not so withdraw his application, the Company shall pay to the applicant the said capital sum by way of commutation of the said part of the said annual sum;
- (d) the said capital sum to be paid by way of commutation shall be such sum as would, on the date of the application, purchase, through an annuity scheme approved by the Minister, an immediate life annuity payable to the applicant equal to the annual amount of the said part of the said annual sum, the applicant's age for this purpose being reckoned at the age he will attain on his birthday next following the date of the application."

—Aire Tionnscail agus Tráchtála.

18. In page 20, section 43 (5), line 9, to add, at the end of the sub-section, the words "or any appeal to him under sub-section (5) of this section".—Aire Tionnscail agus Tráchtála.

19. In page 20, section 43, before sub-section (7), line 12, to insert the following sub-section:—

"(7) The standing arbitrator shall have power by notice in writing to summon witnesses and require the production of books and documents within the possession or procurement of either party to any proceedings before him and may require witnesses to give evidence of fact in relation to any matter or thing arising in such proceedings and, for the purpose of this section such standing arbitrator may exercise the powers hereby conferred on him at any stage of such proceedings, and any person so summoned who fails to attend or refuses to give evidence before such standing arbitrator, and any person who fails or refuses to produce any book or other document the production of which is so required of him or who fails or refuses to disclose any fact relevant to the proceedings within his knowledge or procurement shall be guilty of an offence under this section and shall on summary conviction thereof be liable to a fine not exceeding ten pounds or, in the case of a continuing offence, to a fine not exceeding five pounds in respect of each day on which such offence is continued."

—William Davin, Michael J. Keyes.

20. In page 20, section 43 (7), to delete paragraph (c), lines 20-22, and substitute the following paragraph:—

"(c) may do all or any of the following things—

- (i) summon witnesses to attend before him,
- (ii) examine on oath any witnesses attending before him,
- (iii) require any such witness to produce any document in his power or control which the arbitrator considers necessary."

—Aire Tionnscail agus Tráchtála.

21. In page 20, at the end of section 43, line 26, to add the following two new sub-sections:—

"(8) A witness before the standing arbitrator shall be entitled

to the same immunities and privileges as if he were a witness before the High Court.

(9) If any person—

- (a) on being duly summoned as a witness before the standing arbitrator makes default in attending, or
- (b) being in attendance as a witness refuses to take an oath legally required by the standing arbitrator to be taken, or to produce any document in his power or control legally required by the standing arbitrator to be produced by him, or to answer any question to which the standing arbitrator may legally require an answer,

such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds.”

—Aire Tionnscail agus Tráchtála.

22. In page 22, section 48 (1), line 58, after the word “ provided ” to insert the words “ with particular regard to authorising and compelling the Company (a) to erect posts, indicating compulsory and optional stopping places for omnibuses, and (b) to provide adequate cloakroom accommodation at populous seaside resorts.”—Richard S. Anthony.

23. In page 23 to delete section 49, lines 14 to 31, and substitute the following section :—

Agreements  
with respect  
to allocation  
or routing of  
traffic,  
pooling of  
receipts, etc.

“ (1) In this section, the expression ‘ agreement to which this section relates ’ means an agreement or arrangement being—

(a) an agreement or arrangement for the allocation or routing of traffic or for the pooling of receipts from such traffic or for differential rates on traffic passing by sea to or from the State, or

(b) an agreement or arrangement varying or rescinding any such agreement or arrangement as is mentioned in paragraph (a) of this sub-section.

(2) Except in so far as authorised by an order of the Minister, the Company shall not enter into any agreement to which this section relates with any other transport undertaker.

(3) An order under *sub-section (2)* of this section shall not be made in relation to any agreement to which this section relates save on the application of the parties proposing to enter into the agreement.

(4) If—

(a) an application is made for an order under *sub-section (2)* of this section, and

(b) it appears to the Minister that the interests of any transport undertaker (not being a proposed party to the agreement) would be affected if the agreement were made,

the Minister shall, before making the order, give that transport undertaker an opportunity of making representations in relation to the agreement and consider any representations so made.”

—Aire Tionnscail agus Tráchtála.

24. In page 24, section 52 (3) line 10, before the words “ the Minister ” to insert the words “ the Chief Justice at the request of ”.—Aire Tionnscail agus Tráchtála.

25. In page 24, section 52 (5), line 19, to delete the word “ Minister ” and substitute the words “ Chief Justice ”.—Aire Tionnscail agus Tráchtála.

26. In page 28, section 64, after line 27, to add a new sub-section as follows :—

“ It shall also be the duty of the Advisory Committee to examine any complaint addressed to them on behalf of private car or lorry owners alleging discrimination in favour of Córas Iompair Eireann by way of excise or taxation exemptions not available to private car or lorry owners and to report to Dáil Eireann if any such discriminatory concessions are found to exist.”

—James M. Dillon.

27. In page 29, section 65 (6), to delete line 9, and substitute the words “ may determine ”.—Aire Tionnscail agus Tráchtála.

28. In page 42, before section 106, line 6, to insert a new section as follows :—

“ The Company shall pay to the Chairman of the Railway Tribunal on the abolition thereof a sum equal to the salary (less suspended pension) received by him as Chairman during the period of two years expiring on the day before the establishment date.”

—Patrick McGilligan.

29. In page 42 before section 106, line 6, to insert the following new section :—

“ 106. The Company shall pay by way of compensation for loss of office to the person who immediately before the passing of this Act is chairman of the railway tribunal a lump sum equal to the salary payable to him as such chairman in respect of the two years expiring immediately before the establishment date.

Compensation  
to Chairman  
of Railway  
Tribunal.

In this section the word ‘ salary ’ means the sums paid by way of salary or remuneration to the chairman of the railway tribunal less the amount of any payments to which he was entitled by way of suspended pension arising out of his office as former judge of quarter sessions.”

—William Davin.

30. In page 44, section 110 (4), paragraph (a), sub-paragraph (ii), lines 4 and 5, to delete the words “ in whose functional area the bridge is situate ” and substitute the following words “ , charged, under section 24 of the Local Government Act, 1925 (No. 5 of 1925), with the maintenance of the public road.”.—Aire Tionnscail agus Tráchtála.

31. In page 44, section 110 (4), paragraph (b), sub-paragraph (ii), lines 52 and 53, to delete the words “ in whose functional area the bridge is situate ” and substitute the words “ , charged, under the said section 24 of the said Local Government Act, 1925, with the maintenance of the public road.”.—Aire Tionnscail agus Tráchtála.

32. In page 45, section 110 (4), paragraph (e), to add at the end of the paragraph, line 66, the following new sub-paragraph :—

“ (iii) where, immediately before the operative date, a right of way was exercisable over the said bridge—

(I) in case the railway company, before the date referred to in sub-paragraph (i) of this paragraph, do the following works, namely, replace the said bridge by a crossing on the level over the site of the abandoned railway and render the said crossing fit and safe for use, a right of way similar to that which was exercisable over the said bridge shall, by virtue of this sub-paragraph, be exercisable over the said crossing, and any person for the time being entitled thereto may do all

such things as are reasonably necessary for keeping the said crossing fit and safe for use,

- (II) in any other case, the right of way over the said bridge shall continue to be exercisable, and any person for the time being entitled thereto may do all such things as are reasonably necessary for keeping the said bridge fit and safe for use."

—Aire Tionnscail agus Tráchtála.

33. In page 46, section 110 (8), to add at the end of the sub-section, line 23, the words "either by private treaty to the owner of the land on both sides of such line or by public auction".—Aire Tionnscail agus Tráchtála.

34. In page 53, lines 42 to 49, to delete section 125 and substitute the following section:—

Extension of section 2 of the Railway and Canal Traffic Act, 1854, to the road traffic of certain persons.

"Section 2 of the Railway and Canal Traffic Act, 1854, shall apply to the road traffic of any person under a passenger licence, within the meaning of the Road Transport Act, 1932 (No. 2 of 1932), or under a merchandise licence, within the meaning of the Road Transport Act, 1933 (No. 8 of 1933), in the same manner and to the like extent as the said section applies to the land traffic of a railway company."

—Aire Tionnscail agus Tráchtála.

35. In page 54 to delete section 126 (4), lines 11 to 19.—Aire Tionnscail agus Tráchtála.

36. In page 54, section 129 (1), paragraph (a), lines 46 and 47, to delete the word "undertaking" and substitute the word "undertaker".—Aire Tionnscail agus Tráchtála.

37. In page 55, to delete section 133, lines 38 to 54, and substitute the following section:—

Provisions in relation to maintenance and operation of Victoria Bridge in the City of Dublin.

"(1) In this section—  
the expression 'the bodies concerned' means the Company, the Dublin Corporation and the Grand Canal Company;  
the expression 'the Bridge' means the Victoria Bridge across the Grand Canal in the county Borough of Dublin;  
the expression 'the contemplated agreement' means an agreement to be made between the bodies concerned with respect to the maintenance (including reconstruction), and control of the Bridge;  
the expression 'the appointed period' means the period of one year from the date of the passing of this Act, or such further period as the Minister may allow.

(2) The bodies concerned may, within the appointed period, execute the contemplated agreement, but the contemplated agreement, if so executed, shall not have any force unless confirmed by the Minister, who is hereby authorised, if he thinks fit, to do so.

(3) If the contemplated agreement is executed within the appointed period and confirmed by the Minister, the following provisions shall thereupon have effect—

- (a) the said agreement shall have statutory effect;  
(b) each of the bodies concerned shall, notwithstanding any limitation on the power of that body to enter into it, be deemed to have power to enter into the said agreement;  
(c) it shall be the duty of each of the bodies concerned and each of the said bodies is hereby empowered to carry out the said agreement so far as the provisions thereof are to be carried out by that body.

(4) If the contemplated agreement is not executed within the appointed period or, being so executed, the Minister refuses to confirm it, the following provisions shall have effect—

- (a) the Chief Justice, at the request (made after consultation with the Minister for Local Government and Public Health) of the Minister, shall appoint an arbitrator to determine, after hearing the bodies concerned, the terms and conditions which, having regard to the circumstances then existing, should, in his opinion, govern the future maintenance (including reconstruction) and control of the bridge,
- (b) the determination of the arbitrator shall have statutory effect and it shall be the duty of each of the bodies concerned, and each of them is hereby empowered, to carry out the terms of the said determination so far as the provisions thereof are to be carried out by that body,
- (c) the remuneration of the arbitrator shall be fixed by the Chief Justice and shall be paid in equal proportions by the bodies concerned,
- (d) the arbitrator may, as respects the costs and expenses of the bodies concerned in the proceedings before him, make such order as in his discretion he thinks fit.

—Aire Tionnscoil agus Tráchtála.

38. In page 56, First Schedule, to delete the entries relating to the Dublin Wicklow and Wexford Railway Act, 1900, the Great Southern and Western Railway Act, 1903, and the Midland Great Western Railway of Ireland Act, 1903, and to insert the following:—

" 63 & 64 Vic., c. clvi	Dublin Wicklow and Wexford Railway Act, 1900.	Sections 25 and 26.
3 Edw. VII, c. clx	Great Southern and Western Railway Act, 1903.	Sections 36 and 38.
3 Edw. VII, c. clxiii	Midland Great Western Railway of Ireland Act, 1903.	Section 29; Section 31, so far as relates to trespass by persons.

—Aire Tionnscoil agus Tráchtála.

39. In page 62, line 39, Fifth Schedule, paragraph 1, subparagraph (1) to delete the word "undertaker" and substitute the word "licensee".—Aire Tionnscoil agus Tráchtála.

40. In page 62, Fifth Schedule between lines 44 and 45, paragraph 1, sub-paragraph (1), to insert the following:—

"the expression 'former transport undertaker' means any person being—

- (a) a former transport company, or
- (b) a former road transport licensee."

—Aire Tionnscoil agus Tráchtála.

41. In page 62, Fifth Schedule, paragraph 1, subparagraph (1), to add at the end of the sub-paragraph, line 51, the following:—

"the word 'remuneration' shall be construed as including any cost of living or other bonus."

—Aire Tionnscoil agus Tráchtála.

42. In page 63, line 6, Fifth Schedule, paragraph 1, subparagraph (2), to delete the word "undertaker" and substitute the word "licensee".—Aire Tionnscoil agus Tráchtála.

43. In page 63, line 8, Fifth Schedule, paragraph 1, subparagraph (2) (b), to delete the word "company" and substitute the word "undertaker".—Aire Tionnscail agus Tráchtála.
44. In page 63, Fifth Schedule, paragraph 1, subparagraph (2), before clause (c), line 19, to insert the following clause:—  
 "( ) if that person was suspended from the service of a former transport undertaker on or after the 1st day of April, 1916, and before the 6th day of December, 1921, and the Minister certifies that his suspension was due to his national sympathies, the period of suspension shall be included in the period of his pensionable service;"

—Aire Tionnscail agus Tráchtála.

*Leasú do leasú 44.*

*Amendment to amendment No. 44.*

45. After the word "suspended", where it occurs in the amendment, to insert the words "or dismissed"; and after the word "suspension", wherever it occurs in the amendment, to insert the words "or dismissal".—Martin O'Sullivan, Michael J. Keyes.
46. In page 63, Fifth Schedule, paragraph 1, subparagraph (2), before clause (c), line 19, to insert the following clause:—  
 "( ) if that person was, by reason of disruption of railway services due directly to civil strife in the years 1922, 1923 or 1924, temporarily absent from his employment with a former transport undertaker, such temporary absence shall be included in the period of his pensionable service;"
- Aire Tionnscail agus Tráchtála.
47. In page 63, Fifth Schedule, line 20, paragraph 1, subparagraph (2), clause (c), to delete the words "dissolved company" and substitute the words "former transport undertaker".—Aire Tionnscail agus Tráchtála.
48. In page 63, line 26, Fifth Schedule, paragraph 1, subparagraph (2), clause (d), to delete the word "company" and substitute the words "undertaker or the Company".—Aire Tionnscail agus Tráchtála.
49. In page 63, line 38, Fifth Schedule, paragraph 1, subparagraph (2), clause (e), to delete the word "company" and substitute the word "undertaker".—Aire Tionnscail agus Tráchtála.
50. In page 63, lines 43 and 44, Fifth Schedule, paragraph 1, subparagraph (2), clause (f), to delete the words "in any former transport company" and substitute the words "with any former transport undertaker or the Company".—Aire Tionnscail agus Tráchtála.
51. In page 63, in the Fifth Schedule, paragraph 2, line 54, to delete the words "on the critical date" and substitute the words "on the date of the abolition of his office or situation".—Aire Tionnscail agus Tráchtála.
52. In page 63, Fifth Schedule, paragraph 2, line 54, to delete the words "on the critical date" and substitute the words "at the date of his dismissal or discharge".—Martin O'Sullivan, Michael J. Keyes.
53. In page 63, in the Fifth Schedule, paragraph 3, lines 60 and 61, to delete the words "on the critical date" and substitute the words "on the date of the abolition of his office or situation."—Aire Tionnscail agus Tráchtála.
54. In page 63, Fifth Schedule, paragraph 3, lines 60 and 61, to delete the words "on the critical date" and substitute the words "at the date of his dismissal or discharge".—Martin O'Sullivan, Michael J. Keyes.

55. In page 64, Fifth Schedule, to add at the end, after line 27, a new paragraph as follows:—

“(5) Any person who is in receipt of an allowance by way of compensation under this Schedule may, within a year from the date on which the amount of such allowance is fixed, apply to the Company to commute not more than one-fourth of such annual allowance by payment of a capital sum of money to be calculated by the Company in the manner set out hereunder, and no such application to commute shall be unreasonably refused by the Company:—

- (a) the age of the applicant shall be reckoned at the age he will attain on the birthday next succeeding his application for commutation;
- (b) the amount to be paid by way of commutation shall be such a sum as would if invested on the date of the application in the purchase of an immediate life annuity through the Post Office Savings Bank of Great Britain and Northern Ireland (or through such other annuity scheme as the Minister may approve) purchase an annuity equal to the annual amount of that part of the compensation which is the subject of the application;
- (c) the Secretary of the Company shall communicate to the applicant the amount proposed to be paid by way of commutation when calculated, and the applicant shall within one month of the receipt of such communication give notice to the Company of the withdrawal of his application, or that he accepts such amount or that he disputes such amount;
- (d) any such dispute shall be referred by the Company to and be determined by the standing arbitrator whose decision shall be final;
- (e) the amount to be paid by way of commutation when so agreed or determined shall be paid by the Company to the applicant. Provided that nothing in this Schedule shall be construed as preventing the commutation by agreement of the whole or any part of any such compensation.”

—Peadar S. Doyle.

56. In page 64, Sixth Schedule, (a), in first column and at the head thereof, to insert after the word “chapter” the words “or Number and Year,” and (b) at the end of the Sixth Schedule to add the following:—

No. 11 of 1933	The Road Traffic Act, 1933	Section 120
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—Aire Tionnscail agus Tráchtála.

57. In page 65, Eighth Schedule, paragraph 2, subparagraph (1), to delete all words from the words “but the” in line 16 to the end of the subparagraph and substitute the words “but, subject to the provisions of the *Seventh Schedule* to this Act, the Minister may, on the application of the Company or any interested person, by order specify any articles of merchandise upon which the charges may be calculated by reference to cubic capacity and prescribe the method by which the cubic contents for the purpose of charge is to be calculated.”—Aire Tionnscail agus Tráchtála.

58. In page 65, Eighth Schedule, paragraph 6 subparagraph (1), line 56, to insert after the word “may” the words “, subject to the provisions of the *Seventh Schedule* to this Act.”—Aire Tionnscail agus Tráchtála.

59. In page 68, Eighth Schedule, paragraph 19, to insert before the words “The Minister” the words “, Subject to the provisions of the *Seventh Schedule* to this Act.”—Aire Tionnscail agus Tráchtála.

