



**AN BILLE IOMPAIR (IARNRÓD ÉADROM BHAILE ÁTHA
CLIATH) (UIMH. 2), 1996**

TRANSPORT (DUBLIN LIGHT RAIL) (NO. 2) BILL, 1996

EXPLANATORY MEMORANDUM

General

When enacted, this Bill will enable the Minister for Transport, Energy and Communications to authorise by Order the construction, operation and maintenance by Corás Iompair Éireann of a light railway system serving the Greater Dublin Area.

Section 1 governs the interpretation of terms used in the Bill.

Section 2 provides that a person authorised by the Minister or by the CIE Board may enter land and carry out inspections, examinations and tests for the purposes of the construction of a light rail system. Where entry is refused, the Minister or the CIE Board may apply to the District Court for a warrant authorising such entry. Provision is also made for a procedure whereby compensation can be claimed from the Minister or the Board where damage is caused due to the exercise of functions under this section.

Section 3 provides that CIE may apply to the Minister for a Light Railway Order and specifies the documentation to accompany such application, including a draft of the Order, a plan of the proposed light rail works, a book of reference to the plan and an environmental impact statement.

Section 4 provides that the carrying out of works authorised by the Minister by Order consisting of the construction, maintenance, improvement or repair of a light railway shall be exempted development for the purposes of the Local Government (Planning and Development) Act, 1963.

Section 5 sets out the information which must be contained in an environmental impact statement submitted by Coras Iompair Éireann with its application for a Light Railway Order under *section 3* of the Bill.

Section 6 requires CIE to make available for inspection in such place or places, which are easily accessible to the public, as may be directed by the Minister, copies of the documentation accompanying the application for a Light Rail Order. A notice must be published in the press indicating that an application has been made to the Minister for an Order and indicating that copies are available for inspection by the public at the place or places appointed by the Minister. It also provides for the purchase of these documents or copies thereof. In addition the section provides that copies of the documentation lodged with the application for an Order must be sent to

every Planning Authority in whose functional areas the light rail system is proposed to be constructed and to any other persons as the Minister may direct. This section also provides for service of relevant extracts of this documentation upon every owner or occupier of land referred to in the draft Light Rail Order accompanying CIE's application. This section further provides a minimum four week period for the inspection of the documentation and a further minimum two week period for the making of submissions in writing to the Minister in relation to the proposed Light Rail Order or the likely effects on the environment of the proposed light railway.

Section 7 provides that if the Minister considers it necessary so to do he may require CIE to furnish him with additional information in relation to the likely effects on the environment of the proposed light railway. If the further information furnished contains significant data in relation to the likely effects on the environment of the light railway, notice must be given that such further information is available for inspection or purchase by the public and written submissions may be made to the Minister in relation to such further information. A minimum period of three weeks is set out for the making of such submissions.

Section 8 provides that there must be a public inquiry into the application for a Light Railway Order. It also provides for the appointment of an Inspector after consultation with An Bord Pleanála, to hold the inquiry and for the appointment of a person or persons to act as assessor(s) to assist the Inspector in carrying out his/her functions under this section. The Inspector conducting the public inquiry will be fully independent in the performance of his/her functions. This section also provides that any person will be entitled to appear and be heard at an inquiry, that evidence given at an inquiry must, if the Inspector requires it, be given on oath and that any witness at an inquiry will have the benefit of the same immunities and privileges as a witness in a Court of Law. This section further provides that the Inspector's report be published.

Section 9 specifies the matters which the Minister must consider before deciding whether or not to grant a Light Railway Order to CIE. The Minister must consider the documentation submitted by CIE, the Inspector's report on the public inquiry, any written submissions made but not withdrawn and any additional information provided to him under *section 7*. The Minister will be obliged to consider any submissions made by local planning authorities. This section further provides that if the Minister is of the opinion that the application for an Order should be granted that the Minister will make an Order authorising the construction, maintenance and improvement of the light railway, the use of the works authorised by the Order for the purposes of the operation of a light railway and the operation, maintenance and improvement of a light railway or any part thereof and the Minister may attach such conditions, restrictions and other terms as he/she thinks proper and specifies in the Order. This section further provides for the public notice of the making of an Order under this Bill. Subsection 4 provides that the Minister may by Order amend a Light Rail Order and where the Minister is of opinion that such amendment would constitute a substantial material variation in the light railway works the subject of the original Order and the Minister so declares in a Notice published in accordance with this subsection the provisions of *Sections 3 to 9* of the Bill shall apply in relation to such amendment. This means that any amendment of substance would be the subject of public notice, a statutory public consultation and a public inquiry. Subsections 5 to 8 of this section make provision for the revocation by the Minister

of a Light Railway Order made under this Bill. This section specifically states that CIE will not be able to carry out works on foot of a light railway order until the two month period during which people may apply for judicial review has expired.

Section 10 provides that an Order made under this Bill shall contain such provisions as the Minister considers necessary or expedient for the purposes of the Order and specifies certain matters which may be included in an Order, including the land or rights in relation to land to be acquired for the light railway and provisions appropriate for the protection of local communities, persons affected by the order and the public generally. The Order may also specify the manner in which the works are to be carried out or a time limit within which they must be completed.

Section 11 provides for the retention by CIE at its Head Office, and at such other place as the Minister may specify, for a period of 5 years of a copy of a Light Railway Order made by the Minister and the plan referred to in such Order. This section further provides for the service of relevant extracts from the Order and the plan on every Planning Authority for the area to which the Order relates and on every occupier and every owner of land referred to in that Order.

Section 12 provides for judicial review by the High Court of a Light Railway Order made by the Minister. Application for leave for judicial review must be made within two months from the date from which the Order was made and the section provides that leave shall not be granted unless the High Court is satisfied that there are substantial grounds for such review. The section further provides that the decision of the High Court will be final except where that Court certifies that its decision involves a point of law of exceptional public importance and that an appeal to the Supreme Court is desirable.

Section 13 provides that CIE will, upon the making of a Light Rail Order by the Minister be authorised to compulsorily acquire any land or rights over land specified in that Order. The Order will have effect as if it were a Compulsory Purchase Order duly made and confirmed and as if the Board were a local authority exercising its compulsory purchase powers. Sub-section 2 provides that where in the opinion of CIE it would be more efficient and economical to acquire additional adjoining land it may do so with the consent of the Minister and of the owner of that adjoining land.

Section 14 gives the power to CIE to enter upon land for the purposes of carrying out works authorised by a Light Railway Order and makes provision for the service of notice on an owner or occupier of such land. This section also stipulates that before entering on land the Board must either obtain the consent of the owner/occupier concerned or give 14 days notice in writing to the owner/occupier concerned of its intention and for what purpose it is entering the land. This section further provides that an owner or occupier may apply to the District Court for an order prohibiting such entry and the Judge of the District Court may if he/she thinks it proper, prohibit such entry or impose conditions upon the exercise of the power conferred on CIE by this section. This section further provides for the payment of compensation to an owner or occupier for any loss, injury, damage or expenditure incurred as a result of the exercise of the Boards' powers and makes provision for arbitration in default of agreement of the amount of such compensation.

Section 15 provides that CIE may lop any tree, shrub or hedge which obstructs or interferes with any of its functions under the Bill, particularly the construction, maintenance, improvement or operation of a light railway. Notice must be served upon the owner of such tree, shrub or hedge who may, if he/she wishes, lop or trim such tree, shrub or hedge and recover the cost from CIE.

Section 16 provides that where the Minister makes a Light Railway Order, CIE will be authorised to open, break up or alter the level of any existing public road or to construct a new road but CIE shall not do so without the prior consent in writing of the road authority in whose area the existing or new road is situated. The road authority may give its consent subject to conditions, restrictions or requirements as it sees fit and specifies in its consent.

Section 17 provides that no part of the light railway may open for traffic until it has been inspected and certified by an Inspector appointed by the Minister for that purpose.

Section 18 provides that the Minister may make regulations for the purpose of giving effect to the Act. These may contain such incidental, supplementary and consequential provisions as may appear to be necessary or expedient for the purposes of the Regulations or for resolving any difficulty (during a period of two years after the commencement) in bringing the Act into operation.

Section 19 provides that trespass on a light railway or on any land, machinery or equipment used for purposes of a light railway will be an offence and a person convicted of such offence will be liable to a fine not exceeding £1,500 or imprisonment for a term not exceeding six months or to both.

Section 20 provides that the use of a vehicle on a light railway with flange wheels or wheels suitable only for use on the rails of a light railway, without the consent in writing of CIE, will be guilty of an offence and will be liable to a fine not exceeding £1,500 or to imprisonment for a term of not more than six months or to both.

Section 21 provides that a person who obstructs or interferes with or assists the obstruction or interference with any person in the performance of a function conferred on that person under this Bill will be guilty of an offence and liable on conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding six months or both.

Section 22 provides provisions for the prosecution of offences under the Bill. Proceedings for summary offences may be initiated in the District Court up to three years from the date of the offence.

Section 23 provides for the service of notices under the Bill.

Section 24 provides that CIE may make bye-laws for the management, control, operation and regulation of a light railway and also in relation to the repair, improvement, extension and development thereof and specifies a number of particular matters in respect of which CIE may make such bye-laws. A person who contravenes a bye-law will be guilty of an offence and liable on conviction to a fine not exceeding £1,500 or imprisonment for a term not exceeding six months or both.

Section 25 provides that such functions of CIE as the Board may determine may be performed by a subsidiary company. CIE may, with the consent of the Minister and of the Minister for Finance, acquire or form and register one or more subsidiary companies pursuant to the Companies Act, 1963. The Minister may give a direction in writing to CIE on any matter relating to a subsidiary or the policies, programmes or activities of a subsidiary and CIE must comply with such a direction.

Section 26 applies the Railways Acts, 1840 to 1889 and any other Act relating to railways, to any light railway under this Bill, except where such Acts are inconsistent with the provisions of this Bill and a light railway will be deemed to be a railway within the meaning of those Acts.

Section 27 provides all such orders, regulations and bye-laws must be laid before the Houses of Oireachtas and may be annulled by a resolution of either House within the next 21 sitting days.

Section 28 provides for the payment of the expenses incurred by the Minister in the administration of the Act.

Section 29 provides that fees paid under the Bill shall be paid to the Exchequer in accordance with the directions of the Minister for Finance.

Section 30 is the short title of the Bill.

Exchequer Costs and Staffing Implications

There are no increased permanent Exchequer cost or staffing implications anticipated as a result of this Bill. Departmental staffing requirements will be met from existing resources. Consultancy services will be required in relation to the public inquiry, the monitoring of the project, and the environmental impact assessment. These have been provided for in voted funding of £550,000 in 1996; a figure of £500,000 per annum is anticipated for 1997 and 1998. The costs of construction of light rail projects authorised under the Bill will be met from a combination of national and EU sources.

*An Roinn Iompair, Fuinnimh agus Cumarsáide,
Meitheamh, 1996.*

Section 25 provides that such functions of CIE as the Board may determine may be performed by a subsidiary company. CIE may, with the consent of the Minister and of the Minister for Finance, acquire or form and register one or more subsidiary companies pursuant to the Companies Act, 1963. The Minister may give a direction in writing to CIE on any matter relating to a subsidiary or the policies, programmes or activities of a subsidiary and CIE must comply with such a direction.

Section 26 provides that where the Minister has given a direction under section 25, the provisions of the Railways Act, 1940 to 1989 and any other Act relating to railways, to any light railway under this Bill, except where such Acts are inconsistent with the provisions of this Bill and a light railway will be deemed to be a railway within the meaning of those Acts.

Section 27 provides that all such orders, regulations and bye-laws made by CIE under this Bill shall be subject to the provisions of the Statutory Instruments Act, 1947 and shall be subject to the provisions of the Statutory Instruments Act, 1947.

Section 28 provides for the payment of the expenses incurred by the Minister in the administration of the Act.

Section 29 provides that the Bill shall be read in the House of Representatives in accordance with the directions of the Minister for Finance.

Section 30 is the short title of the Bill.

Section 31 provides that the Minister may, in writing, direct CIE to carry out any function which is specified in the direction and to do so in accordance with the directions of the Minister. The Minister may also direct CIE to carry out any function which is specified in the direction and to do so in accordance with the directions of the Minister. The Minister may also direct CIE to carry out any function which is specified in the direction and to do so in accordance with the directions of the Minister.

Section 32 provides for the prosecution of offences under the Bill. Proceedings for summary offences may be initiated in the District Court up to three years from the date of the offence.

Section 33 provides for the service of notices under the Bill.

Section 34 provides that CIE may make bye-laws for the management, control, operation and regulation of a light railway and also in relation to the repair, improvement, extension and development thereof. A person who contravenes a bye-law may be liable on conviction to a fine not exceeding 100 dollars or to imprisonment for a term not exceeding six months or both.

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