



**AN BILLE IOMPAIR (IARNRÓD ÉADROM BHAILE ÁTHA
CLIATH) (UIMH. 2), 1996
TRANSPORT (DUBLIN LIGHT RAIL) (NO. 2) BILL, 1996**

*Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas*

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ACTS REFERRED TO

Companies Act, 1963	1963, No. 33
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Local Government (No. 2) Act, 1960	1960, No. 40
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Public Offices Fees Act, 1879	1879, c. 58
Railways Clauses Consolidation Act, 1845	1845, c. 20
Regulation of Railways Act, 1871	1871, c. 78
Regulation of Railways Acts, 1840 to 1889	
Roads Act, 1993	1993, No. 14



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BILL

entitled

AN ACT TO MAKE FURTHER PROVISION IN RELATION TO TRANSPORT AND FOR THAT PURPOSE TO ENABLE THE MINISTER FOR TRANSPORT, ENERGY AND COMMUNICATIONS TO AUTHORISE, BY ORDER, THE CONSTRUCTION, OPERATION AND MAINTENANCE BY CÓRAS IOMPAIR ÉIREANN OF A LIGHT RAILWAY SERVING THE CITY OF DUBLIN AND CERTAIN SURROUNDING AREAS AND TO PROVIDE FOR MATTERS CONNECTED WITH THE MATTERS AFORESAID.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act except where the context otherwise requires — Interpretation.

“the Act of 1963” means the Local Government (Planning and Development) Act, 1963;

“the Act of 1993” means the Roads Act, 1993;

“authorised officer” means any person authorised in writing by the Minister or the Board to exercise the powers conferred on an officer by this Act;

“the Board” means Córas Iompair Éireann;

“environmental impact statement” shall be construed in accordance with *section 3(2)(d)*;

“functions” includes powers and duties and references to the performance of functions include as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

“land” has the meaning assigned to it by the Act of 1963;

“light railway” means a railway (whether above, on or under the ground) whose operation is authorised by a light railway order;

“light railway order” means an order under *section 9*;

“light railway works” means any works required for the purposes of a light railway or any part of a light railway, including works ancillary to the purposes aforesaid, in the functional areas of the councils

of the counties of South Dublin, Fingal and Dún Laoghaire Rathdown and the corporation of the county borough of Dublin and in this definition "works" includes any act or operation of construction, excavation, tunnelling, demolition, extension, alteration, reinstatement, reconstruction, making good, repair or renewal;

"local authority" has the meaning assigned to it by the Act of 1993;

"the Minister" means the Minister for Transport, Energy and Communications;

"planning authority" has the meaning assigned to it by the Act of 1963;

"public road" means a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority;

"road" has the meaning assigned to it by the Act of 1993;

"road authority" has the meaning assigned to it by the Act of 1993.

(2) In this Act —

- (a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactment including this Act,
- (b) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended,
- (c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

Surveys and inspections.

2.—(1) An authorised officer may, on production of his or her authorisation if so requested by any person affected, for the purposes of this Act enter on any land and —

- (a) inspect and survey the land and make any inquiry, investigation or examination for the purpose of ascertaining whether or not the land is suitable for the purposes of the construction of a light railway,
- (b) carry out any investigation or examination thereon preliminary or incidental to the purposes aforesaid,
- (c) bring thereon such other persons or equipment as he or she may reasonably consider necessary for the purposes of his or her functions under this section,
- (d) line sight, drill, bore, probe or excavate, or take such samples and carry out such tests as he or she reasonably considers necessary or expedient for the purposes of such functions.

(2) Before an authorised officer enters any dwelling house under *subsection (1)*, he or she shall obtain the consent (which shall not be

unreasonably withheld) of any owner or occupier of the dwelling house.

(3) Where an authorised officer is refused entry to any land, the Minister or the Board may apply to a judge of the District Court assigned to the district court district in which the land is situate for a warrant authorising such entry and upon the hearing of the application the judge shall, if satisfied that such entry is necessary or expedient, by warrant authorise such entry.

(4) Whenever an authorised officer exercises any of the functions conferred on him or her by *subsection (1)*, the Minister or the Board, as the case may be, shall be liable to make good all damage done to the land entered upon or interfered with by the exercise of such functions and to pay compensation in respect of any loss arising out of or in the course of the performance of the functions of an officer under this section, and, if there is a failure to do so, any person affected by the damage or loss shall be entitled to compensation in respect thereof and such compensation shall be recoverable from the Minister or the Board, as the case may be, in default of agreement, in any court of competent jurisdiction.

3.—(1) The Board may apply to the Minister for a light railway order.

Application for a light railway order.

(2) An application under *subsection (1)* shall be made in writing in such form as the Minister may specify and shall be accompanied by —

- (a) a draft of the proposed order,
- (b) a plan of the proposed light railway works,
- (c) a book of reference to the plan (indicating the identity of the owners and of the occupiers of the lands described in the plan),
- (d) a statement of the likely effects on the environment (referred to subsequently in this Act as an “environmental impact statement”) of the proposed light railway works,

and the draft plan and book of reference shall be in such form as the Minister may specify or in a form to the like effect.

(3) Upon an application to the Minister for a light railway order there shall be paid to the Minister by the Board such fee (if any) as the Minister, with the consent of the Minister for Finance, may fix.

(4) The construction of light railway works shall not be undertaken unless the Minister has granted an order under *section 9*.

4.—Each of the following shall be exempted development for the purposes of the Act of 1963 —

Exempted development.

- (a) development consisting of the carrying out by or on behalf of the Board of light railway works, including the use of the light railway works or any part thereof for the purposes of the operation of a light railway, authorised by the Minister and specified in a light railway order or of

any incidental or temporary works connected with such development;

(b) development consisting of the carrying out by or on behalf of the Board of light railway works for the maintenance, improvement or repair of a light railway.

Environmental
impact statement.

5.—(1) An environmental impact statement shall contain the following specified information:

(a) a description of the proposed light railway works comprising information about the site, design, size, physical characteristics and land-use requirements of the light railway works,

(b) the data necessary to identify and assess the main effects which the proposed light railway works are likely to have on the environment,

(c) a description of the likely significant effects, direct and indirect, on the environment of the proposed light railway works, explained by reference to their possible impact on —

(i) human beings, fauna and flora,

(ii) soil, water, air, climate and the landscape,

(iii) the inter-action between any of the matters referred to in *subparagraphs (i) and (ii)*,

(iv) material assets, and

(v) the cultural heritage,

(d) where significant adverse effects are identified with respect to any of the matters referred to in *paragraph (c)*, a description of the measures envisaged in order to avoid, reduce and, if possible, remedy those effects,

(e) where appropriate, an outline of the main alternatives (if any) studied and an indication of the main reasons for choosing the proposed alternative, taking into account the environmental effects, and

(f) a summary in non-technical language.

(2) An environmental impact statement may include, by way of explanation or amplification of any of the specified information referred to in *subsection (1)*, further information on any of the following matters:

(a) the estimated type and quantity of expected emissions resulting from the proposed light railway works when in operation,

(b) the likely significant direct and indirect effects (including secondary, cumulative, short, medium and long term, permanent and temporary, positive and negative effects) on the environment of the proposed light railway works which may result from —

(i) the use of natural resources,

- (ii) the emission of pollutants, the creation of nuisances and the elimination of waste,
 - (c) the forecasting methods used to assess any effects on the environment about which information is given under *paragraph (b)*,
 - (d) any difficulties, such as technical deficiencies or lack of knowledge, encountered in compiling any specified information.
- (3) The European Communities (Environmental Impact Assessment) Regulations, 1989 (S.I. No. 349 of 1989), and the Local Government (Planning and Development) Regulations, 1994 (S.I. No. 86 of 1994), shall not apply to proposed light railway works.

6.—(1) Whenever an application is made for a light railway order, the Board shall, within 7 days of the making of the application—

Publication of notice in relation to application for light railway order.

- (a) deposit and keep deposited at such place or places, being a place or places which are easily accessible to the public, as may be appointed by the Minister, a copy of the draft order, the plan, the book of reference to the plan and the environmental impact statement which accompanied the application,
- (b) publish a notice in one or more newspapers circulating in the area to which the order relates —
 - (i) indicating that an application has been made for an order,
 - (ii) indicating the times at which, the period (being not less than one month) during which and the place or places where a copy of the draft order, plan, book of reference and environmental impact statement deposited under this section may be inspected,
 - (iii) stating that the Minister will consider any submissions in relation to the proposed order or in relation to the likely effects on the environment of the proposed light railway works which are submitted in writing by any person not later than 2 weeks after the end of the period specified in the notice referred to in *subparagraph (ii)*, and
 - (iv) stating that a copy of or extract from the draft order, plan, book of reference or environmental impact statement may be purchased on payment of a fee not exceeding the reasonable cost of making such copy or extract,
- (c) serve on the planning authority in whose functional area (or any part thereof) the proposed light railway works are proposed to be carried out and such persons (if any) as the Minister may direct a copy of the draft order, plan, book of reference, environmental impact statement and the notice referred to in *paragraph (b)*, and
- (d) serve a copy of the notice referred to in *paragraph (b)* together with relevant extracts from the documents referred to in *paragraph (a)* on every (if any) occupier and every (if any) owner of land referred to in the draft order.

(2) Members of the public may inspect a copy of a draft light railway order, plan, book of reference or environmental impact statement deposited under this section free of charge at the times and during the period specified in the notice referred to in *subsection (1)(b)(ii)* and may purchase copies of or extracts from any of the documents aforesaid on payment of a fee to the Board not exceeding the reasonable cost of making such copies or extracts as may be fixed by the Board.

(3) A person may, not later than 2 weeks after the end of the period specified in *subsection (2)*, make submissions in writing to the Minister in relation to the proposed light railway order or the likely effects on the environment of the proposed light railway works.

Further information
to Minister.

7.—(1) Where the Minister is of opinion that an environmental impact statement furnished under *section 3* does not comply with the provisions of *section 5*, or where he or she otherwise considers it necessary so to do, he or she shall require the Board to furnish him or her with a document containing such further information in relation to the likely effects on the environment of the proposed light railway works as he or she may specify and the Board shall comply with any such requirement.

(2) (a) If the document furnished under *subsection (1)* contains significant data in relation to the likely effects on the environment of the proposed light railway works, the Minister shall require the Board —

(i) to deposit and keep deposited at the place or each of the places appointed by the Minister, a copy of the aforesaid document,

(ii) to publish in one or more newspapers circulating in the area to which the proposed light railway order relates a notice stating that further information in relation to the likely effects on the environment of the proposed light railway works has been furnished to the Minister, that copies of the document containing the information will be available for inspection free of charge and for purchase by members of the public, at the place or each of the places appointed by the Minister at specified times during the period of 4 weeks beginning on the day of publication of the notice and that submissions in relation to the further information may be made to the Minister before the expiration of the said period,

(iii) to serve notice of the furnishing of the further information to the Minister, together with relevant extracts from the document aforesaid, on any person on whom notice was served pursuant to *section 6(1)* and to indicate to the person concerned that submissions in relation to the further information may be made to the Minister during the period of 4 weeks beginning on the day on which the notice is sent to the person concerned by the Board.

(b) Copies of further information in respect of which notice is published pursuant to a requirement under *subsection (2)(a)(ii)* shall be made available for purchase by members of the public during the period specified therein for such fee as the Board may fix not exceeding the reasonable cost of making such copies.

(3) Members of the public may inspect the further information deposited under this section free of charge at the times and during the period specified in the notice referred to in *subsection (2)(a)(ii)*.

(4) A person may, during the appropriate period specified in *subsection (2)*, make submissions in writing to the Minister in relation to the further information deposited under this section.

8.—(1) (a) Where an application is made to the Minister for a light railway order, the Minister shall direct a public inquiry to be held into the application in the functional area of the local authority in which the light railway is proposed to be situated or such one of the local authorities in which it is proposed to be situated as the Minister may determine.

Public inquiry into application for light railway order.

(b) The Minister shall, after consultation with An Bord Pleanála, appoint a person to be an inspector to hold the inquiry referred to in *subsection (1)*.

(c) The person appointed under *paragraph (b)* shall be a person who in the opinion of the Minister has satisfactory experience and competence in one or more of the following areas: transportation planning, civil engineering, land use planning, architecture, law, finance, environmental matters or administration.

(d) The inspector so appointed shall hold the inquiry and shall prepare and submit to the Minister a report in writing of the findings of the inquiry and he or she may, if he or she so thinks fit, include in the report any recommendations he or she considers appropriate having regard to the inquiry and the Minister shall, without delay after such submission, cause the report to be published.

(e) Where an inspector is appointed under *paragraph (b)*, the Minister may appoint a person or persons to act as an assessor or assessors to assist the inspector in relation to his or her functions under this section and a person or persons so appointed shall not take any part in the preparation of the report, the making of the findings or the recommendations (if any) under *paragraph (b)*.

(f) The Board, every owner and occupier of land on, under or over which it is proposed to construct the light railway works the subject of the application, every planning authority within whose functional area the works are intended to be situated, every person who made a submission to the Minister under *section 6(3)* or *7(4)* and every other interested person shall be entitled to appear and be heard at an inquiry under this section.

(2) An inspector appointed under this section shall, for the purposes of the inquiry, consider—

(i) the application made to the Minister under *section 3*;

- (ii) the draft order, plan, book of reference to the plan and the environmental impact statement which accompanied the application;
- (iii) any submission, whether written or oral, made to the inquiry;
- (iv) any alternatives to the application submitted to the inquiry;
- (v) the impact of the proposed light railway, the subject of the application, on local communities;

and such other matters as the inspector considers appropriate.

(3) An inspector appointed under this section may, for the purposes of the inquiry—

- (a) require, by summons, any person to attend as a witness to give evidence,
- (b) require any person to produce such plans, books, papers and other documents (being in that person's custody or under his or her control) which the inspector may consider relevant and retain such plans, books, papers and documents for such time as he or she may reasonably require them,
- (c) administer or cause to be administered an oath and take evidence under oath.

(4) If a person—

- (a) on being duly summoned to attend as a witness under *subsection (3)* before an inquiry without just cause or excuse disobeys the summons,
- (b) being in attendance as a witness refuses to take an oath or to make an affirmation when legally required by the inspector to do so, or to produce any documents in his or her custody or control legally required by the inspector to be produced by him or her or to answer any question to which the inspector may legally require an answer,
- (c) wilfully gives evidence which is material to the inquiry and which he or she knows to be false or does not believe to be true,
- (d) by act or omission, obstructs or hinders the inspector in the performance of his or her functions,
- (e) fails, neglects or refuses to comply with any requirement provided for under *subsection (3) (b)*, or does or omits to do any other thing and if such doing or omission would, if the inquiry had been the High Court, have been contempt of that Court,

the person shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months, or to both.

(5) A statement or admission made by a person before an inspector under this section shall not be admissible in evidence against that person in any criminal proceedings other than proceedings in relation to an offence under *subsection (4)*.

(6) A person duly summoned to attend as a witness under *subsection (3)* before an inquiry shall be allowed such expenses to be paid out of moneys provided by the Oireachtas as would be allowed to a witness summoned to attend before a court of record and, in case of dispute as to the amount to be allowed, the dispute shall be referred by the inspector to a taxing master of the High Court, who, on request signed by the inspector, shall ascertain and certify the proper amount of the expenses.

(7) A witness at an inquiry under this section shall be entitled to the same immunities and privileges as a witness in a court.

(8) The Minister may, if he or she so thinks fit, appoint more than one person to be an inspector for the purposes of this section and references in this section to an inspector shall, in the case where more than one is so appointed, be construed accordingly.

(9) An inspector appointed under this section shall be independent in the performance of his or her functions.

(10) (a) Where a public inquiry has been held under this section and the Minister considers it reasonable that a contribution shall be made towards the costs and expenses reasonably incurred by any person (other than a local authority or other body) in relation to the inquiry, the Minister may certify that the contribution shall be made and the certificate shall specify the amount of the contribution and direct its payment to such person by the Board.

(b) A sum directed under this section to be paid by the Board to any person may be recovered by such person from the Board as a simple contract debt in any court of competent jurisdiction.

(11) An inspector appointed under this section shall cause copies of any documents or written submissions given or made to him or her at an inquiry under this section to be made available during the inquiry at the place where the inquiry is being held for inspection by members of the public.

9.—(1) Whenever an application is made under *section 3*, the Minister shall, before deciding whether to grant the order to which the application relates, consider the following: Light railway order.

(a) the application,

5 (b) the draft order, plan, book of reference to the plan and the environmental impact statement which accompanied the application,

(c) the report of the public inquiry held under *section 8*, and the recommendations (if any) contained therein,

10 (d) any submission duly made to him or her under *section 6(3)* or *7 (4)* and not withdrawn,

(e) any submission duly made to him or her by a planning authority referred to in *section 6 (1) (c)*,

15 (f) any additional information furnished to him or her under *section 7*.

(2) If after such consideration, he or she is of opinion that the application should be granted, he or she shall make an order authorising —

(a) the Board to construct, maintain and improve the light railway works specified in the order or any part thereof, 5

(b) the use of the light railway works or any part thereof for the purposes of the operation of a light railway, and

(c) the operation, maintenance and improvement of a light railway or any part thereof,

in such manner and subject to such conditions, restrictions and requirements (and on such other terms) as the Minister thinks proper and specifies in the order and the Minister shall furnish the Board with a copy of the order. 10

(3) Where the Minister makes an order under *subsection (2)* which constitutes a substantial material departure from the recommendations contained in the report of the public inquiry held under *section 8*, the Minister shall lay a statement in writing before each House of the Oireachtas stating his or her reasons for such departure. 15

(4) As soon as may be after the making of a light railway order, the Minister shall publish a notice in *Iris Oifigiúil* and in at least two newspapers circulating in the area to which the order relates of the making of the light railway order and of the places where, the period during which and the times at which copies thereof and any plan referred to therein may be inspected or purchased at a cost not exceeding the reasonable cost of making such copies. 20 25

(5) A light railway order shall come into operation—

(a) in case an application for leave to apply for judicial review of the order has not been made, upon the expiration of 2 months, and

(b) in case such an application has been made, and has not been withdrawn, in so far as it has not been declared invalid or quashed pursuant to that review, upon the final determination of the proceedings concerned or such other date as may be determined in those proceedings, and 30

(c) in case such an application has been made and is withdrawn, upon the date of the withdrawal. 35

(6) (a) Subject to *paragraph (b)*, on application in that behalf by the Board to the Minister, the Minister may, if he or she considers it appropriate to do so, by order amend a light railway order or the plan or book of reference relating to it and amendments under this paragraph may include a provision varying the route of the light railway. 40

(b) Where, in the opinion of the Minister, an amendment of a light railway order would, if made, constitute a substantial material variation in the light railway works the subject of the order, and the Minister so declares in a notice published in *Iris Oifigiúil*, *sections 3 to 9* shall apply in relation to the making of an order under *paragraph (a)* as they apply to a light railway order and the application shall be deemed for the purposes of this Act to be an application for a light railway order and this Act shall 45 50

apply accordingly in relation to the application with any necessary modifications.

(7) The Minister may, if there is a failure or refusal to comply with a condition, restriction or requirement specified in a light railway order, revoke the order.

(8) (a) Where the Minister proposes to revoke an order under this section, he or she shall notify the Board in writing of his or her proposal and of the reasons for it.

(b) The Board may, not later than 3 weeks from the date of the sending of the notification, make submissions in writing to the Minister and the Minister shall —

(i) before deciding the matter, take into consideration any submissions duly made to him or her under this paragraph in relation to the proposal and not withdrawn, and

(ii) notify the Board in writing of his or her decision and of the reasons for it.

(9) A notification of a proposal of the Minister under subsection (8) shall include a statement that the Board may make submissions to the Minister not later than 3 weeks from the date of the sending of the notification and a notification of a decision of the Minister under subsection (8) shall include a statement that the Board may appeal to the High Court under subsection (10) against the decision not later than 3 weeks from the date of the sending of the notification.

(10) The Board may appeal to the High Court against a decision of the Minister under this section and that Court may, as it thinks proper, on the hearing of the appeal, confirm the decision of the Minister or direct the Minister to withdraw his or her decision and prohibit the making of the proposed order concerned.

(11) The Minister shall not proceed to make an order under subsection (6) before the expiration of 3 weeks from the date of the notification of a decision under subsection (7) and, if an appeal is brought against the decision, before the final determination of the appeal.

10.—(1) A light railway order shall contain such provisions as the Minister considers necessary or expedient for the purpose of the order.

Provisions in relation to light railway order.

(2) Without prejudice to the generality of subsection (1)—

(a) a light railway order may specify any land the acquisition of which is, in the opinion of the Minister, necessary for giving effect to the order,

(b) the order may specify any rights in, under or over land or water or, subject to the consent of the Minister for the Environment, in, under or over any public road, the acquisition of which is, in the opinion of the Minister, necessary for giving effect to the order,

- (c) the order may specify the manner in which the light railway works or any part thereof to which the order relates are to be constructed,
- (d) the order may fix the period within which the construction of the light railway works is to be completed, 5
- (e) the order may contain provisions as to the manner in which the light railway works are to be operated and maintained,
- (f) the order may contain such provisions as the Minister thinks proper for the protection of the public generally, of local communities and of any persons affected by the order, 10
- (g) the order may provide for the determination by arbitration of any specified questions arising thereunder,
- (h) the order may contain such provisions ancillary or incidental to any of the matters aforesaid as the Minister considers necessary and proper. 15

Notification of grant of light railway order.

11.—As soon as may be after the making of a light railway order, the Board shall —

- (a) deposit and keep deposited at the head office of the Board and at such other place as may be specified by the Minister during the period of 5 years following the opening for traffic of the light railway a copy of the order and the plan referred to therein and the aforesaid order and plan shall, while so deposited, be open to inspection by members of the public free of charge at all reasonable times and copies of or extracts from any of the documents aforesaid may be purchased on payment of a fee to the Board not exceeding the reasonable cost of making such copies or extracts, 20 25
- (b) serve a copy of relevant extracts from the light railway order and the plan referred to therein on every planning authority for the area (or any part thereof) to which the order relates and to every (if any) occupier and every (if any) owner of land referred to in the light railway order. 30

Review of light railway order.

12.—(1) A person shall not question the validity of a light railway order otherwise than by way of an application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) (hereafter in this section referred to as “the Order”). 35

(2) An application for leave to apply for judicial review under the Order in respect of a light railway order or part thereof referred to in *subsection (1)* shall— 40

- (a) be made within the period of 2 months commencing on the date on which the light railway order was made unless the court considers that there is good and sufficient reason for extending the period within which the application shall be made, 45
- (b) be made by motion on notice (grounded in the manner specified in the Order in respect of an *ex parte* motion for leave) to the Minister and the Board, and such leave

shall not be granted unless the High Court is satisfied that there are substantial grounds for contending that the order is invalid or ought to be quashed.

5 (3) The High Court may, before hearing an application referred to in subsection (2), direct that notice of the application be also served on such persons (including any person who made a submission to the Minister in accordance with section 6) as the Court may specify.

10 (4) (a) The determination of the High Court of an application for leave to apply for judicial review as aforesaid or of an application for such judicial review shall be final and no appeal shall lie from the decision of the High Court to the Supreme Court in either case save with the leave of the High Court which leave shall only be granted where
15 the High Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Supreme Court.

20 (b) This subsection shall not apply to a determination of the High Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

(5) Where an application is made for judicial review in respect of part only of a light railway order, the High Court may, if it so thinks
25 fit, declare to be invalid or quash the part or any provision thereof without declaring to be invalid or quashing the remainder of the order or the part, as the case may be, and if the Court does so, it may make any consequential amendments to the remainder of the order or the part, as the case may be.

30 (6) References in this section to the Order shall be construed as including references to the Order as amended or re-enacted (with or without modification) by rules of court.

13.—(1) Upon the commencement of a light railway order the Board shall thereupon be authorised to acquire compulsorily any
35 land or rights in, under or over land specified in the order and, for that purpose, the light railway order shall have effect as if it were a compulsory purchase order referred to in subsection (1) of section 10 of the Local Government (No. 2) Act, 1960 (as inserted by section 86 of the Housing Act, 1966), which has been duly made and confirmed and, accordingly, that section shall apply and have effect in
40 relation to the order with the modifications that—

Compulsory acquisition of land.

(a) references to the local authority shall be construed as references to the Board,

45 (b) references to the Minister for the Environment shall be construed as references to the Minister,

(c) the reference in subsection (4) (a) to section 78 of the Housing Act, 1966, shall be construed as a reference to subsections (1), (4) and (5) of that section,

and with any other necessary modifications.

50 (2) Where the Board proposes to acquire land pursuant to subsection (1) and, in the opinion of the Board, it is more efficient and

economical to acquire additional adjoining land, the Board may do so with the consent of the Minister and of any person having an interest in or right in, under or over the adjoining land notwithstanding the fact that the adjoining land is not specified in a light railway order.

5

Power of Board to carry out light railway works and to enter land.

14.—(1) (a) Upon the commencement of a light railway order, the Board may, for the purposes of its functions under this Act —

(i) enter on any land the subject of the order and carry out on the land light railway works authorised by the order, 10

(ii) enter on any other land and occupy it or otherwise make use of it for the purpose of carrying out the works aforesaid, 15

(iii) enter on any land for the purpose of carrying out any maintenance or improvement of the light railway concerned, 15

(iv) enter on any land and attach to any wall, house or other building any bracket, cable or wire or other fixture required for the construction, operation or maintenance of the light railway concerned, 20

(v) enter on any land and underpin or otherwise strengthen any house or other building affected or likely to be affected by the works or the railway aforesaid, 25

and do on any such land all such other things as are, in its opinion, ancillary to, or reasonably necessary for, the purposes aforesaid.

(b) Before exercising any power under *paragraph (a)*, the Board shall either— 30

(i) obtain the consent of any owner or occupier of the land concerned, or

(ii) give to any owner or occupier of the land concerned not less than 14 days notice in writing stating its intention to enter on the land and the purposes for which the entry is intended to be made. 35

(c) A person to whom a notice has been given under this subsection may, not later than 14 days after the giving of the notice, apply, on notice to the Board, to the judge of the District Court having jurisdiction in the district court district in which the land is situated for an order prohibiting the entry and, upon the hearing of the application, the judge may, if he or she so thinks proper, either prohibit the entry or specify conditions to be complied with by the person making the entry. 40 45

(d) Where a judge of the District Court prohibits under this subsection a proposed entry onto land, it shall 50

5 not be lawful for any person to enter under *paragraph (a)* onto the land, and where a judge of the District Court specifies under this subsection conditions to be complied with by a person entering onto land, every person who enters onto the land under *paragraph (a)* shall comply with the conditions so specified.

(2) (a) Where, in the opinion of the Board —

10 (i) the exercise of a power conferred on it by *subsection (1)* is urgently required for the purpose of preventing or minimising injury, loss or damage to persons or property, and

(ii) it is not reasonably possible to comply, in relation to such exercise, with *paragraph (b)* of that subsection,

15 the Board may exercise the power without having complied in relation to such exercise, with that paragraph.

20 (b) Before exercising a power by virtue of this subsection, the Board shall give to any owner or occupier of the land notice of its intention to enter on the land, and of the purposes for which the entry is intended to be made.

25 (c) Where, in the opinion of the Board, it is not reasonably possible to comply with *paragraph (b)*, the Board may exercise the power concerned without having complied therewith and, as soon as may be thereafter, shall give to any owner or occupier of the land concerned a notice in writing specifying the powers exercised and the purposes of such exercise.

30 (3) (a) Where an owner or occupier of land (other than a person whose land is acquired under *section 13*) suffers loss, injury or damage or incurs expenditure in consequence of the exercise by the Board of a power conferred on it by this section, the Board shall pay to him or her compensation in respect of the loss, injury, damage or expenditure and the amount of the compensation shall, in default of agreement, be determined by arbitration under and in accordance with the Lands Clauses Acts (other than sections 38 to 67 of the Lands Clauses Consolidation Act, 1845) and, for the purposes of those Acts, the Board shall be deemed to be the promoter of the undertaking and this Act and the light railway order concerned shall be deemed to be the special Act; and, for the purposes of such determination, those Acts shall apply with any other necessary modifications and are incorporated (except insofar as they are inconsistent with and subject to any amendments or modifications, express or implied, thereof effected by this Act) with this Act.

45 (b) In assessing the compensation payable to a person under *paragraph (a)*, regard shall be had to any benefit to any property of the person that arises or may reasonably be expected to arise from the exercise of the power concerned.

50 15.—(1) The Board may lop, remove or cut any tree, shrub or hedge which obstructs or interferes with—

Lopping of trees by Board.

- (a) surveys or inspections under *section 2*,
- (b) light railway works authorised by a light railway order,
- (c) the maintenance, operation or improvement of light railway works or cables or other light railway apparatus,
- (d) the operation of a light railway, 5
- (e) the laying and erection of electric wires, or
- (f) the safe passage of the light railway vehicles including the safety of any passengers on board such vehicles on a light railway line.

(2) Before lopping or cutting any tree, shrub or hedge under this section, the Board shall serve on the owner or occupier of the land or, in the case of a public road, on the road authority charged with the maintenance of such road on which such tree, shrub or hedge is standing, notice in writing of its intention to do so and, after the expiration of one month from the date of such service, the Board may lop or cut any tree, shrub or hedge if the owner or occupier has not already done so. 10 15

(3) Where an occupier or owner of land cuts or lops any tree, shrub or hedge under this section, the expense incurred by him or her in so doing shall be paid to him or her on demand by the Board and the amount of such expenses shall be recoverable from the Board, in default of agreement, as a simple contract debt in any court of competent jurisdiction. 20

Breaking up of roads, etc.

16.—(1) Upon the commencement of a light railway order, the Board shall thereupon be authorised for the purpose of carrying out light railway works or the operation, maintenance, repair or improvement of a light railway or for any purpose incidental to the purposes aforesaid to— 25

- (a) open, break up and, if necessary, alter the level of any public road, or 30
- (b) construct a new road.

(2) The Board shall not open, break up or alter the level of any public road or construct a new road without the prior consent in writing (which shall not be unreasonably withheld) of the road authority in whose functional area the road is situate or, in the case of a new road, to be situate. 35

(3) A consent under *subsection (2)* may be given by the road authority subject to such conditions, restrictions or requirements as it thinks fit and specifies in the consent and the Board shall comply with such conditions, restrictions or requirements (if any). 40

(4) The Board shall, as soon as practicable, reinstate any public road opened or broken up or altered pursuant to *subsection (1)(a)*.

Opening of light railway.

17.—No part of a light railway shall be opened for traffic until the light railway has been inspected and certified for traffic by an inspector duly appointed by the Minister under the Regulation of Railways Act, 1871. 45

18.—(1) The Minister may make regulations generally for the purposes of giving effect to this Act and, if in any respect any difficulty arises during the period of 2 years after the commencement of this section in bringing into operation this Act, by regulations do anything which appears to be necessary or expedient for bringing this Act into operation. Regulations.

(2) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

19.—(1) A person who trespasses on a light railway that is not on a public road or trespasses on any land, machinery or equipment used for the purposes of the light railway shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500. Trespass on light railway.

(2) Where a person is charged with an offence under this section in respect of a trespass—

(a) the fact that he or she had not received a personal warning shall not be a ground of defence,

(b) he or she shall not, in any case, be convicted of the offence unless the Board proves to the satisfaction of the Court that, at the date of the trespass there was affixed at the station of the Board nearest to the place where the trespass is alleged to have been committed, a notice (painted on boards or printed, painted or enamelled, on iron or any other material) in legible characters warning persons not to trespass on the light railways of the Board.

(3) No person lawfully crossing a light railway of the Board by means of any accommodation works maintained in pursuance of section 68 of the Railways Clauses Consolidation Act, 1845, shall be guilty of an offence under this section.

20.—A person who uses or attempts to use a vehicle on a light railway with flange wheels or wheels suitable only for use on the rails of a light railway without the written consent of the Board shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both. Unlawful use of light railway.

21.—A person who obstructs or interferes with or assists a person to obstruct or interfere with any person in the performance of a function conferred on that person under this Act shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both. Obstruction.

22.—(1) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, and subject to subsection (2), summary proceedings for an offence under this Act may be instituted— Provisions in relation to prosecutions.

(a) at any time within 6 months from the date on which the offence was committed, or

(b) at any time within 3 months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are instituted, to justify proceedings comes to such person's knowledge,
whichever is the later. 5

(2) Summary proceedings aforesaid shall not be instituted later than 3 years from the date on which the offence was committed.

(3) For the purposes of this section, a certificate signed by the person instituting the proceedings or on his or her behalf by a person authorised by him or her to sign such a certificate on his or her behalf stating the date on which evidence described in subsection (1)(b) of this section came to the knowledge of the first mentioned person shall, until the contrary is shown, be sufficient evidence in any proceedings under this Act of the facts stated therein, without proof of any signature on it or that the signatory was the proper person to sign it, and shall, until the contrary is shown, be sufficient evidence of compliance by the first mentioned person with the requirements imposed on him or her by or under this section. 10 15

(4) Proceedings for a summary offence under this Act (other than proceedings referred to in subsection (5)) may be brought and prosecuted by the Board. 20

(5) Proceedings for a summary offence under section 21 in relation to an authorised officer of the Minister may be brought and prosecuted by the Minister.

Service of notices.

23.—(1) Whenever the Minister is satisfied in relation to a notice required to be served under this Act that — 25

- (a) reasonable grounds exist for dispensing with the service of the notice, and
- (b) the dispensing with the service of the notice will not cause injury or damage to any person, 30

he or she may dispense with the service of the notice and every such dispensation shall have effect according to the terms thereof.

(2) Where a notice is required or authorised by or under this Act to be served on a person, it shall be addressed to him or her and shall be served on or given to him or her in some one of the following ways: 35

- (a) where it is addressed to him or her by name, by delivering it to him or her,
- (b) by leaving it at the address at which he or she ordinarily resides or, in a case in which an address for service has been furnished, at that address, 40
- (c) by sending it by post in a prepaid registered letter, or by any other form of recorded delivery service specified by the Minister, addressed to him or her at the address at which he or she ordinarily resides or, in a case in which an address for service has been furnished, at that address, 45
- (d) where the address at which he or she ordinarily resides cannot be ascertained by reasonable inquiry and the notice

is so required or authorised to be served in respect of any land or premises, by delivering it to some person over sixteen years of age resident or employed on such land or premises or by affixing it in a conspicuous position on or near such land or premises.

5

(3) Where a notice is required by or under this Act to be served on an owner or occupier of any land or premises and the name of the owner or of the occupier, as the case may be, cannot be ascertained by reasonable inquiry, it may be addressed to "the owner" or "the occupier", as the case may require, without naming him or her.

10

(4) A person who, at any time during the period of 3 months after a notice is affixed under *subsection (2)(d)*, removes, damages or defaces the notice without lawful authority shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both.

15

(5) For the purposes of this section, a company within the meaning of the Companies Acts, 1963 to 1990, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

20

24.—(1) The Board may make bye-laws for the management, control, operation and the regulation of a light railway and in relation to the repair, improvement, extension and development thereof and, without prejudice to the generality of the foregoing, in relation to any one or more of the following matters:

25

Power of Board to make bye-laws in relation to light railway.

(a) the regulation of the times of arrival and departure of light railway vehicles,

30

(b) the prevention of the commission of nuisances in or upon its light railway vehicles,

(c) the prevention of damage to light railway vehicles,

35

(d) the removal from or the prohibition of the use on a light railway line of any vehicle or thing which is or may become a danger to life, health, the operation or maintenance of a light railway or would otherwise interfere with the proper operation of a light railway,

(e) the fixing, altering, charging and recovery of fares, fees, tolls and charges in respect of the travelling upon or use of light railway vehicles,

40

(f) the general regulation, subject to any statutory provisions in that behalf, of the travelling upon or use of light railway vehicles and the working of light railway transport services by the Board,

45

(g) the safe custody and redelivery or disposal of any property found on or in any light railway vehicles of the Board and the fixing of charges in respect thereof.

(2) Bye-laws under this section may contain such incidental, subsidiary and ancillary provisions as the Board considers necessary or expedient for the purposes of the bye-laws.

50

(3) A person who contravenes a bye-law under this section shall be guilty of an offence and shall be liable on summary conviction to

a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both.

Subsidiary of Board.

- 25.—(a) Such functions of the Board as it may determine may be performed by a subsidiary (within the meaning of the Companies Act, 1963) and, accordingly, the Board may, with the consent of the Minister and the Minister for Finance, for the purpose of such performance, acquire or form and register one or more subsidiaries. 5
- (b) The memorandum and articles of association of a subsidiary shall be in such form as may be determined by the Board with the consent of the Minister and the Minister for Finance. 10
- (c) The Minister may give a direction in writing to the Board on any matter relating to a subsidiary or the policies, programmes or activities of a subsidiary and the Board shall comply or, as may be appropriate, secure compliance with the direction. 15
- (d) A direction under this subsection in relation to the disposal of any assets or surpluses of a subsidiary shall not be given without the consent of the Minister for Finance. 20

Application of Railways Acts.

26.—The Regulation of Railways Acts, 1840 to 1889, and any other Act relating to railways shall, in so far as they are not inconsistent with the provisions of this Act, apply to a light railway constructed under this Act and, for the purposes of this section, a light railway shall be deemed to be a railway within the meaning of those Acts. 25

Laying of orders and bye-laws before Houses of Oireachtas.

27.—Every order or regulation made by the Minister and every bye-law made by the Board under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling the order, regulation or bye-law is passed by either such House within the next 21 days on which that House has sat after the order, regulation or bye-law is laid before it, the order, regulation or bye-law shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 30

Expenses.

28.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be authorised by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 35

Fees.

29.—(1) Fees paid under this Act shall be paid into and disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance. 40

(2) The Public Offices Fees Act, 1879, shall not apply in respect of any fees under this Act.

Short title.

30.—This Act may be cited as the Transport (Dublin Light Rail) Act, 1996.

BILLE

dá ngairtear

Acht do dhéanamh socrú breise i ndáil le hiompar agus chun na críche sin dá chumasú don Aire Iompair, Fuinnimh agus Cumarsáide a údarú, le hordú, do Chóras Iompair Éireann iarnród éadrom a fhreastalóidh ar chathair Bhaile Átha Cliath agus ar cheantair áirithe timpeall uirthi a fhoirgniú, a oibriú agus a chothabháil agus do dhéanamh socrú i dtaobh nithe a bhaineann leis na nithe réamhráite.

*Ritheadh ag dhá Theach an Oireachtais,
5 Iúil, 1996*

BILL

entitled

An Act to make further provision in relation to transport and for that purpose to enable the Minister for Transport, Energy and Communications to authorise, by order, the construction, operation and maintenance by Córas Iompair Éireann of a light railway serving the city of Dublin and certain surrounding areas and to provide for matters connected with the matters aforesaid.

*Passed by both Houses of the Oireachtas,
5th July, 1996*

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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