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AN BILLE UM IOMPAR AR BHÓITHRE, 1997
ROAD TRANSPORT BILL, 1997

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

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SCHEDULE

Acts Referred to

Forgery Act, 1913	3 & 4 Geo. 5., c.27
Dublin Transport Authority Act, 1986	1986, No. 15
European Communities Act, 1972	1972, No. 27
Road Traffic Act, 1961	1961, No. 24
Road Transport Act, 1932	1932, No. 2
Road Transport Act, 1933	1933, No. 8
Road Transport Act, 1935	1935, No. 23
Road Transport Act, 1971	1971, No. 8
Road Transport Act, 1978	1978, No. 8
Road Transport Act, 1986	1986, No. 16
Transport Act, 1944	1944, No. 21
Transport Act, 1958	1958, No. 19
Transport (Miscellaneous Provisions) Act, 1955	1955, No. 21



AN BILLE UM IOMPAR AR BHÓITHRE, 1997
ROAD TRANSPORT BILL, 1997

BILL

entitled

5 AN ACT TO AMEND AND EXTEND THE ROAD TRANSPORT ACT, 1933, THE ROAD TRANSPORT ACT, 1978, THE ROAD TRAFFIC ACT, 1961, AND OTHERWISE TO AMEND THE LAW IN RELATION TO MATTERS PERTAINING TO ROAD TRANSPORT.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Interpretation.

“the Minister” means the Minister for Transport, Energy and Communications;

“Principal Act” means the Road Transport Act, 1933.

15 **2.**—Section 2 of the Principal Act is hereby amended—

Amendment of
Principal Act.

(a) by designating the existing section as subsection (1) of that section;

(b) by the deletion of “the expression”, “the expressions” and “the word” wherever they occur in that section, and

20 (c) by the insertion of the following after the meanings assigned to “passenger licence” and “annual passenger licence”:

“‘international road freight carrier’s licence’ means an international road freight carrier’s licence granted under regulations made under section 3 of the European Communities Act, 1972, that—

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(a) entitles the holder to carry on a merchandise road transport business for reward in the State, and

(b) qualifies the holder to carry on a merchandise road transport business for reward outside the State,

30 with such vehicles as may be specified on the licence;

‘international road passenger transport operator’s licence’ means an international road passenger transport

operator's licence granted under regulations made under section 3 of the European Communities Act, 1972, that—

- (a) entitles the holder to carry passengers for reward within the State, and
- (b) qualifies the holder to carry passengers for reward outside the State

with such vehicles as may be specified on the licence;

'national road freight carrier's licence' means a national road freight carrier's licence granted under regulations made under section 3 of the European Communities Act, 1972, that entitles the holder to carry on a merchandise road transport business for reward in the State with such vehicles as may be specified on the licence;

'national road passenger transport operator's licence' means a national road passenger transport operator's licence granted under regulations made under section 3 of the European Communities Act, 1972, that entitles the holder to carry passengers for reward within the State with such vehicles as may be specified on the licence;

'restricted road freight licence' has the meaning assigned by section 10C of this Act;

'road freight carrier's licence' means a national road freight carrier's licence or an international road freight carrier's licence;

'road passenger transport operator's licence' means a national road passenger transport operator's licence or an international road passenger transport operator's licence;

'transport disc' means a transport disc issued under section 29A of this Act;”,

and

- (d) by the insertion of the following subsection after subsection (1):

“(2) In this Act, unless the contrary intention appears, a reference to an enactment includes a reference to that enactment as amended.”.

Duration of licence. **3.**—The following section is hereby inserted after section 10 of the Principal Act:

“10A.—(1) A road freight carrier's licence or a road passenger transport operator's licence that is granted after the day on which this provision comes into operation shall not expire by effluxion of time but shall cease to be valid if—

- (a) subject to regulations made under section 3 of the European Communities Act, 1972, providing for the continuation of licences in the circumstances referred to in this paragraph, where the holder is an individual, such individual dies or becomes physically or legally incapacitated,

(b) where the holder is a partnership, company or co-operative, it is dissolved,

(c) the holder ceases to carry on the activity in respect of which the licence was granted, or

(d) the licence is revoked or suspended by the Minister.

(2) Notwithstanding subsection (1), a road freight carrier's licence or a road passenger transport operator's licence may specify a period fixed by the Minister for the validity of the licence and in such case it shall expire on the last day of that period or shall cease to be valid by reason of an event referred to in that subsection.

(3) As soon as practicable after the coming into operation of this provision, the Minister shall grant to each holder of an existing road freight carrier's licence or road passenger transport operator's licence a replacement licence of the same type having no expiration date."

4.—The following section is hereby inserted after section 10A of the Principal Act (inserted by *section 3* of this Act):

Parking and operating space for vehicles to be provided by licence holder.

"10B.—(1) The holder of a road freight carrier's licence or a road passenger transport operator's licence shall, as a condition of licence, ensure that adequate parking spaces and operating premises are provided in the State for the vehicles being operated or intended to be operated under the licence.

(2) Subsection (1) of this section does not apply in respect of a person who holds a licence on the day immediately preceding the date on which this section comes into operation until the expiration of three years after that date."

5.—The following section is hereby inserted after section 10B of the Principal Act (inserted by *section 4* of this Act):

Restricted road freight licences.

"10C.—(1) Notwithstanding anything in this Act or the Road Transport Act, 1935, the Minister may grant, in respect of a vehicle which complies with the conditions specified in section 7(1) of the Road Transport Act, 1935 (as amended by section 29 of the Transport Act, 1958), a licence (which shall be known and is in this Act referred to as a 'restricted road freight licence') to a person authorising the person to import the vehicle and to use it for the purposes of merchandise road transport in the State, subject to any conditions which the Minister may see fit to impose and specifies in the licence.

(2) The Minister may by order declare that a licence or class of licence (as may be specified in the order) granted by the competent authority of another State, an international organisation or a person or body acting on behalf of such an organisation in pursuance of an act of the European Communities, an international agreement relating to international transport by road to which the Government, the State or the European Communities is or are a party, or an agreement, arrangement or resolution relating to such transport to which the Minister is a party, shall be deemed to be a restricted road freight licence, and any such order made before the coming into operation of this section

shall continue in force and be deemed to have been made under this section.

(3) The Minister may by order amend or revoke an order made under this section.

(4) Nothing in this section shall be construed as permitting a person to use a vehicle, in respect of which a restricted road freight licence has been granted, for the delivery in the State of goods which have been loaded on to that vehicle in the State, except where an order made by the Minister under subsection (2) of this section expressly permits such delivery. 5 10

(5) A person who is, or is deemed under subsection (2) of this section to be, the holder of a restricted road freight licence in respect of a vehicle, is not required, in respect of that vehicle, to

(a) hold a road freight carrier’s licence, or 15

(b) obtain a transport disc.

(6) The Minister may at his discretion charge a fee of such amount as he may determine in respect of a restricted road freight licence or a licence deemed by order under subsection (2) of this section to be a restricted road freight licence.”. 20

Transport discs.

6.—The following sections are hereby inserted after section 29 of the Principal Act:

“Issue of transport discs.

29A.—(1) Subject to this section, the Minister shall, on application, issue—

(a) to the holder of a road freight carrier’s licence, a transport disc in respect of each vehicle to be operated under the licence, 25

(b) to the holder of a road passenger transport operator’s licence, a transport disc in respect of each vehicle to be operated under the licence. 30

(2) An application for a transport disc shall—

(a) be in such form and contain such information in respect of the applicant and the vehicle to which it relates as the Minister may from time to time determine, and 35

(b) be accompanied by the appropriate fee prescribed under section 29D of this Act. 40

(3) Subject to subsections (4)(a) and (5) of this section, a transport disc—

(a) is valid for five years from the date in respect of which it is issued, and 45

(b) shall be made of such material, and shall be of such pattern and show thereon

such information and markings as the Minister may from time to time determine.

(4) Where, on application to the Minister in such form and containing such information as the Minister may from time to time determine, accompanied by the appropriate fee prescribed under section 29D of this Act, the Minister is satisfied that—

(a) a transport disc issued in respect of a vehicle has been lost or destroyed or is worn or defaced so as to be illegible, the Minister may issue a replacement transport disc to be valid for the remainder of the term of the transport disc that it replaces, or

(b) a vehicle in respect of which a transport disc has been issued is undergoing repairs, the Minister may issue a permit for use in a replacement vehicle during such period not exceeding 21 days as the permit indicates, and in such case the provisions of this Act apply to the replacement vehicle and the permit as if the permit were the transport disc for the vehicle.

(5) Where one or more transport discs have been issued in respect of a vehicle or vehicles used in connection with the operation carried on by the holder of a licence and the holder adds a vehicle to the operation, the disc issued in respect of the vehicle added shall be valid only until the expiration of validity of the disc or discs issued in respect of the vehicle or vehicles first mentioned.

29B.—(1) No person shall operate a vehicle for the carriage—

(a) of passengers under a road passenger transport operator's licence granted under section 10A(3) of this Act,

(b) of passengers under a road passenger transport operator's licence granted after the coming into operation of this subsection, or

(c) of merchandise under a road freight carrier's licence,

unless a transport disc has been issued in respect of the vehicle.

(2) Where a transport disc has been issued in respect of a vehicle, no person shall—

(a) operate the vehicle unless the disc is displayed in or on the vehicle in accordance with such instructions as may be issued with the disc by the Minister,

in a place that enables the disc to be readily visible and accessible for inspection and does not obscure the vision of the operator of the vehicle while it is being driven, or 5

- (b) operate the vehicle if the disc displayed in or on the vehicle is worn or defaced to the extent that the information and markings required to be shown thereon are illegible. 10

(3) Where—

- (a) a vehicle in respect of which a transport disc has been issued ceases to be used in connection with the operation carried on by the holder of the licence to which the vehicle relates, or 15

- (b) the holder of the licence ceases to be lawfully entitled to carry on the operation to which the licence relates,

the holder shall, if the transport disc is removable from the vehicle, within 30 days, remove it and return it to the Minister. 20

(4) A person who contravenes any provision of this section shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £1,000. 25

(5) Where a person is charged with an offence under subsection 2(b) of this section, it shall be a defence for the person to show that an application for a replacement transport disc under section 29A(4)(a) of this Act had been made at the time of the alleged offence. 30

(6) A certificate signed by an officer of the Minister or a Superintendent of the Garda Síochána stating— 35

- (a) that a transport disc was issued on a specified date to a specified person in respect of a specified vehicle, or
- (b) that on a specified date or during a specified period a transport disc was not in effect in respect of a specified person or vehicle, 40

shall, without proof of the signature or that the person who signed was such officer or Superintendent, be received in evidence in any proceedings under this Act and shall, in the absence of evidence to the contrary, be proof of the facts stated in the certificate. 45

Offence relating to use of transport disc.

29C.—If any transport disc issued in respect of a particular vehicle is affixed to any other vehicle, the owner of the first-mentioned vehicle and also 50

the owner of the other vehicle (if he or she is not the same person as the owner of such first-mentioned vehicle) shall each be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

Regulations relating to transport discs.

29D.—(1) The Minister may by regulation prescribe the fee to be paid on an application for a transport disc and may prescribe different fees in respect of different kinds or categories of transport discs, whether as fixed amounts or amounts determined by reference to the type of vehicles to be operated under the licence or by reference to such other matters as the Minister considers are relevant in connection with the charging of such fees.

(2) A regulation under subsection (1) of this section may provide that all or a specified portion of any fee that is paid on an application for a transport disc is not required to be returned to the applicant and may be retained by the Minister as administrative costs in the event the disc is not issued.

(3) The Minister may by regulation exempt any class of holder of a road freight carrier's licence or a road passenger transport operator's licence or vehicles of any specified class of such holder from the requirements of section 29B of this Act.

Application of provisions relating to transport discs and vehicle plates.

29E.—Except where the contrary intention appears, the provisions of this Act that apply in respect of—

- (a) a vehicle plate shall apply, with any necessary modifications, in respect of a transport disc, and
- (b) a transport disc shall apply, with any necessary modifications, in respect of a vehicle plate.”.

7.—The Principal Act is hereby amended by the insertion of the following section after section 30: Licensing document offences.

“30A.—(1) A person who—

- (a) alters or causes or permits the alteration of a licensing document, or
- (b) engages in the carriage of goods or passengers by road for reward while in possession of a licensing document that has been altered,

shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £1,000.

(2) A licensing document shall be deemed to be a public document for the purposes of section 4(2) of the Forgery Act, 1913.

(3) For the purposes of subsections (1) and (2) of this section, 'licensing document' means—

- (a) a road freight carrier's licence,
- (b) a road passenger transport operator's licence,
- (c) a transport disc, 5
- (d) a restricted road freight licence within the meaning of section 10C of this Act,
- (e) a licence deemed under section 10C of this Act to be a restricted road freight licence, or
- (f) such other document as may be prescribed." 10

Prohibition relating to carriage of merchandise by unlicensed undertaking.

8.—Section 36 of the Principal Act is hereby amended by the substitution of the following subsections for subsection (1):

“(1) No person shall engage or use the services of any undertaking for the carriage by road for reward of merchandise in a vehicle unless— 15

- (a) the undertaking is the holder of a road freight carrier's licence, or
- (b) the carriage is one in respect of which a road freight carrier's licence is not required by law.

(1A) For the purposes of subsection (1), 'undertaking' means 20
any natural person, any legal person, whether profit-making or not, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such personality." 25

Repeals.

9.—The Acts specified in the *first* and *second columns* of the *Schedule* to this Act are hereby repealed to the extent specified in the *third column* of that Schedule opposite the reference to the Act concerned.

Amendment of Road Transport Act, 1978.

10.—(1) Section 5 of the Road Transport Act, 1978, is hereby 30
amended—

(a) by the substitution for subsection (1) (inserted by section 29(8) of the Dublin Transport Authority Act, 1986) of the following subsection:

“(1) Where an act of the European Communities 35
relating to international transport by road, an international agreement relating to such transport to which the Government, the State or the European Communities is a party, or an agreement, arrangement or resolution relating to such transport to 40
which the Minister is a party so requires, the Minister may by order exempt any specified class of vehicle or any specified class of such transport from section 7 of the Road Transport Act, 1932, sections 6 and 7 of the Road Transport Act, 1935, or any 45
provision of—

(a) any Act, or

(b) any regulations made under the European Communities Act, 1972,

providing for the licensing of road freight carriers or road passenger transport operators or the issuing of transport discs.”,

and

(b) by the insertion of the following subsection after subsection (2):

“(3) Road passenger vehicles which are permitted to be imported into the State under an agreement referred to in subsection (1) of this section that is in force on the day on which this subsection comes into operation shall be deemed to have been exempted from the provisions of section 29A of the Road Transport Act, 1933, by an order made under subsection (1) of this section.”.

(2) Notwithstanding *subsection (1)* of this section, an order made by the Minister under section 5(1) of the Road Transport Act, 1978, which is a subsisting order at the commencement of *subsection (1)* (a) of this section shall continue in force until duly revoked by the Minister.

11.—(1) Section 12 of the Road Traffic Act, 1961, is hereby amended by the insertion of the following subsections after subsection (4):

Amendment of
Road Traffic Act,
1961.

“(4A) Where a person contravenes subsection (3)(b) of this section and the load or loads were consigned to such person by one consignor alone, that consignor shall be guilty of an offence.

(4B) In a prosecution under subsection (4A) of this section it shall be a good defence for the consignor to prove—

(a) that it was not practicable for the consignor to estimate the laden weight of the vehicle or combination of vehicles, or

(b) that an estimate of the laden weight of the vehicle or combination of vehicles carried out by the consignor prior to the dispatch of the goods indicated that the weight of the vehicle or combination of vehicles did not exceed the maximum weight laden specified by a regulation under this section applying in relation to the vehicle or combination of vehicles.

(4C) In this section ‘consignor’ means a person who engages the services of another person for the carriage by road of merchandise in a vehicle or combination of vehicles.”.

(2) Section 16 of the Road Traffic Act, 1961, is hereby amended by the substitution of “25 kilometres” for “five miles” in both subsections (1)(b)(i) and (2)(c)(i).

12.—This Act shall come into operation on such day as may be fixed by order of the Minister, and different days may be so fixed for different provisions and for different purposes.

13.—(1) This Act may be cited as the Road Transport Act, 1997.

(2) The Principal Act and this Act, other than *section 11*, shall be construed together as one Act.

SCHEDULE

Number and Year (1)	Short Title (2)	Extent of Repeal (3)	
No. 8 of 1933	Road Transport Act, 1933	Sections 3, 9-14, 17, 23, 24, 26, 27, 28, 30, 31(3), 32-34, 37, Parts V and VI	10
No. 21 of 1944	Transport Act, 1944	Sections 112, 114, 118-121, 124	
No. 21 of 1955	Transport (Miscellaneous Provisions) Act, 1955	Section 2	15
No. 19 of 1958	Transport Act, 1958	Sections 26, 27	
No. 8 of 1971	Road Transport Act, 1971	Sections 4, 7, 8	
No. 8 of 1978	Road Transport Act, 1978	Sections 7, 8	
No. 16 of 1986	Road Transport Act, 1986	Sections 3, 6, 7, 10-12	



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AN BILLE UM IOMPAR AR BHÓITHRE, 1997
ROAD TRANSPORT BILL, 1997

EXPLANATORY AND FINANCIAL MEMORANDUM

A: General

The main aim of the Bill is to provide for haulage and passenger operator licences of unexpired duration. The Road Transport Act, 1986 currently provides for time-limited operator's licences for haulage operators. Regulations made pursuant to a European Union Directive limit a passenger operator's licence to five years. Providing for licences of unexpired duration in both instances is in keeping with the situation in some Member States of the European Union. Licensees will be subject to continuous review to ensure that the criteria for obtaining and continuing to hold licences are being met.

In pursuit of a policy of making legislation more readable and accessible to the public, an extensive repeal of the many licensing provisions and subsequent amending provisions of the Road Transport Acts is undertaken. As the criteria for obtaining operator licences are specified in EU Directives, it is proposed to set out all operator licensing requirements and procedures in Regulations made pursuant to the European Communities Act, 1972.

The Bill for the first time provides that licensed operators must have adequate parking space and operating premises in the State for the vehicles operated under the licence. The Bill provides for a replacement of the existing vehicle plating procedure with a transport disc regime whereby transport discs are issued centrally by the Department of Transport, Energy and Communications. The result is the replacement of a cumbersome plating procedure with a "one-stop" arrangement for vehicle plating for the first time. The Bill amends the Road Traffic Acts, 1961 to 1994, to provide for consignor liability in the case of vehicle overweight offences. Currently the driver and the owner, if the owner is not the driver, are liable in the case of overweight offences. The Bill will add a third category of offender in such cases. The Bill also extends from five miles to twenty five kilometres the distance a driver, suspected of carrying overweight, can be directed to a weighbridge for weighing.

B: Detailed Provisions of the Bill

Sections 1 and 2 contain definitions and additional definitions to be inserted in the Principal Act.

Section 3 provides that all Road Freight Carrier's Licences and Passenger Transport Operator's Licences granted after the coming into force of this section shall be of unlimited duration. In certain circumstances such licences shall cease to be valid i.e.:

- where the holder is an individual, he/she dies or becomes legally or physically incapacitated. Exceptionally, a next of kin who complies with certain conditions, to be set out in Regulations, can retain the licence for a limited period;
- where a partnership, company or co-operative is dissolved;
- where the licence holder ceases to carry on the business for which the licence was granted;
- where the licence is revoked or suspended by the Minister.

There is provision for the Minister to issue a time-expired licence in certain cases such as where all the conditions for obtaining a licence were not met or some element of the information provided only covered a limited period. This provision would mainly arise in the case of new licences. *Subsection (3)* provides that all existing operator's licences current at the time of the coming into force of this section shall be replaced in due course by a licence of the same type having no expiry date.

Section 4 provides that licensees shall provide adequate parking spaces and operating premises in the State commensurate with the number of vehicles being operated or intended to be operated under the licence. There is provision for a three year breathing space for existing licensees.

Section 5 is a technical provision (currently section 8 of the Road Transport Act, 1971 as inserted by section 8 of the Road Transport Act, 1986) which provides for the importation of merchandise vehicles into the State for haulage purposes under restricted road freight licences. Individual vehicles can be issued with a restricted road freight licence. Permits or authorisations issued to vehicles of a third country pursuant to an act of the European Communities or an agreement to which that country and Ireland or the European Union are a party can be regarded as restricted road freight licences. A restricted road freight licence exempts out-of-state hauliers from the transport disc provisions of the Act and from a prohibition on importing a vehicle into the State for haulage purposes. Cabotage is forbidden unless an express order of the Minister allows it.

Section 6 inserts a number of sections into the Principal Act which are designed to replace the existing vehicle plating regime with a transport disc scheme which will be operated by the Department of Transport, Energy and Communications. Transport discs are to be issued to passenger vehicles for the first time. Currently, vehicle plates are issued by the Garda Síochána but the new system eliminates the need for operators to apply to the Gardai for vehicle plates. The transport disc regime is designed, firstly, to assist enforcement in the area of illegal operation, secondly, to assist the keeping of accurate statistics on the size of the licensed haulage and passenger fleets, and thirdly, to provide a mechanism for the payment of fees in the context of operator licences of unlimited duration. The section provides for:

- the issue of transport discs of five years' duration by the Minister on payment of a fee;
- the imprinting of information on each transport disc;
- the procedure to be followed in cases of lost, destroyed, worn or defaced discs;
- non-operation of a vehicle for the purposes of carriage of merchandise and passengers for reward unless a transport disc has been issued in respect of that vehicle;

- the display of the disc in or on a vehicle; and
- the creation of offences in relation to transport discs and issues relating to prosecution of such offences.

A new provision allows the Minister by order to exempt certain classes of licensees or classes of vehicles from the requirement to obtain a transport disc. The intention is that city bus services would not be required to obtain or display transport discs.

Section 7 creates offences for the alteration and fraudulent use of a licensing document. *Subsection (2)* deems a licensing document to be a public document for the purposes of the Forgery Act, 1913 which makes it an offence to print false licensing documents.

Section 8 provides for an amendment of section 36(1) of the Principal Act designed to tighten up the existing provision whereby a person who employs an unlicensed haulage operator is liable to prosecution. Under the existing provision it was necessary to prove that an agreement existed between the consignor and the unlicensed haulier. The new provision obviates that requirement.

Section 9 provides for repeal of a significant number of sections of the Principal Act and subsequent Road Transport Acts. Repeals are undertaken on the basis that it is proposed to deal with the provisions in Regulations to be made pursuant to the European Communities Act, 1972 or on the basis that the provision is obsolete.

Section 10 provides for an amendment of section 5 of the Road Transport Act, 1978 as substituted by section 29(8) of the Dublin Transport Authority Act, 1986. The section provides for the exemption of specified classes of international transport by road from the licensing, vehicle plating (now transport disc) and prohibition on importation of vehicles provisions of the Road Transport Acts where those specified classes of road transport are the subject of an international agreement to which the Government or the State is a party. The suggested amendment adds the European Communities and acts of the European Communities to the provision. *Subsection (1)(b)* inserts a new provision which provides that buses which are imported into the State under previous agreements can be exempted from the transport disc provisions by order. This subsection is necessary because buses operating in the State for reward were not hitherto subject to transport disc requirements.

Section 11 contains an amendment of the Road Traffic Act, 1961 which provides for a third category of offender in the case of overweight vehicles. Up to now only the driver or the owner of the vehicle, if he was not the driver, committed an offence in cases of overweight vehicles. *Subsection (2)* of this section extends from five miles to twenty-five kilometres (over 15 miles), the distance a driver can be directed under section 16 of the Road Traffic Act, 1961 to a weighbridge for weighing purposes. The Garda authorities have been of the view that drivers deliberately avoid driving within five miles of known weighbridges in order to avoid detection for overweight offences.

Section 12 provides for commencement.

Section 13 contains the short title of the Act.

C. Staffing and Exchequer Implications.

It is not expected that additional staffing or Exchequer spending will be required to implement the Bill when enacted.

*An Roinn Iompair, Fuinnimh agus Cumarsáide,
Márta, 1997.*