



# **DÁIL ÉIREANN**

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## **AN BILLE UM SHÁBHÁILTEACHT IARNRÓID 2001 RAILWAY SAFETY BILL 2001**

### **LEASUITHE TUARASCÁLA REPORT AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE UM SHÁBHÁILTEACHT IARNRÓID 2001 —AN TUARASCÁIL

### RAILWAY SAFETY BILL 2001 —REPORT

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#### *Leasuithe Amendments*

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1. In page 7, line 19, after “DRUGS,” to insert “TO PROVIDE FOR OFFENCES BY PERSONS WORKING ON RAILWAYS,”.  
—An tAire Iompair.

2. In page 7, line 22, after “RAILWAYS,” to insert the following:

“TO PROVIDE FOR OFFENCES AND OTHER MATTERS RELATING TO THE CONDUCT OF PERSONS ON RAILWAYS, TO PROVIDE FOR MATTERS RELATING TO CÓRAS IOMPAIR ÉIREANN, AND FOR THAT PURPOSE TO AMEND THE TRANSPORT ACT 1950 AND OTHER ENACTMENTS RELATING TO CÓRAS IOMPAIR ÉIREANN, TO PROVIDE FOR MATTERS RELATING TO LIGHT RAILWAYS AND METRO, AND FOR THAT PURPOSE TO AMEND THE TRANSPORT (RAILWAY INFRASTRUCTURE) ACT 2001,”.

—An tAire Iompair.

3. In page 10, between lines 5 and 6, to insert the following:

“(2) Notwithstanding section 69 of the Transport (Railway Infrastructure) Act 2001, this Act applies to any railway works authorised by a railway order under section 43 of that Act.”.

—An tAire Iompair.

4. In page 10, lines 32 and 33, to delete all words from and including “the” where it firstly occurs in line 32 down to and including “Iarnróid,” in line 33 and substitute the following:

“An Coimisiún Sábháilteachta Iarnróid or, in the English language, the Railway Safety Commission,”.

—Sean Crowe.

5. In page 11, to delete line 3 and substitute the following:

“(b) to enforce this Act and any other legislation relating to railway safety, and”.

—An tAire Iompair.

6. In page 13, lines 18 and 19, to delete all words from and including “any” in line 18 down to and including “Act)” in line 19 and substitute the following:

“its functions as he or she considers appropriate”.

—An tAire Iompair.

7. In page 13, to delete lines 23 to 34 and substitute the following:

“Members of  
Commission.

14.—(1) The Commission shall consist of at least one but not more than 3 members.

(2) Each member of the Commission shall be known as a Commissioner for Railway Safety and is in this Act referred to as a ‘commissioner’.

(3) The person who holds, immediately before the establishment day, the position of Chief Railway Inspecting Officer of the Minister, shall, subject to his accepting such period for his holding office on such terms and conditions as fixed under *subsection (5)*, on the establishment day, become and be a commissioner and is deemed appointed under this subsection.

(4) A commissioner (other than the person referred to in *subsection (3)*) shall be appointed by the Minister.

(5) A commissioner shall be appointed to hold office in a full-time capacity for a period of not less than 3 years and not more than 7 years on such terms and conditions, including remuneration, as the Minister, with the consent of the Minister for Finance, may fix.”.

—An tAire Iompair.

8. In page 15, to delete lines 1 to 5 and substitute the following:

“(1) The Minister—

(a) shall designate his or her officers recruited specifically for transfer to the Commission, and

(b) may designate such and so many of his or her officers who are Railway Inspecting Officers,”.

—An tAire Iompair.

9. In page 15, line 24, to delete “2001” and substitute “2003”.

—Roisín Shortall.

10. In page 20, line 46, to delete “21,”.

—An tAire Iompair.

11. In page 21, line 12, to delete “2004” and substitute “2006”.

—An tAire Iompair.

**12.** In page 22, line 21, after “Oireachtas” to insert the following:

“within 3 months of its receipt by him or her”.

—An tAire Iompair.

**13.** In page 22, between lines 21 and 22, to insert the following:

“(4) The Minister may give directions in writing to the Commission in regard to the format and content of a report under *subsection (3)*, but such directions shall not require the Commission to include in such report details which could, in the opinion of the Commission, be prejudicial to the performance of its functions.”.

—An tAire Iompair.

**14.** In page 22, line 24, after “request” to insert the following:

“provided that such information would not, in the opinion of the Commission, be prejudicial to the performance of its functions”.

—An tAire Iompair.

**15.** In page 22, between lines 29 and 30, to insert the following:

“(6) The Commission shall furnish to the Minister such information about the performance of its functions as the Minister may from time to time require (other than information the provision of which under this subsection would, in the opinion of the Commission, be likely to prejudice the performance of any of its functions).”.

—Olivia Mitchell.

**16.** In page 23, to delete lines 21 to 24.

—An tAire Iompair, Roisín Shortall.

**17.** In page 23, between lines 28 and 29, to insert the following:

“(4) The Minister shall supply to one or both Houses of the Oireachtas such information regarding the performance of the Commission’s functions as may from time to time be required by a member of either House.”.

—Olivia Mitchell.

**18.** In page 25, line 25, after “and” to insert the following:

“, after consultation with the Council, railway undertakings and such other persons as in the opinion of the Commission may be relevant,”.

—An tAire Iompair.

**19.** In page 25, line 28, after “shall,” to insert the following:

“for the purposes of complying with its duty under *section 36*,”.

—An tAire Iompair.

**20.** In page 25, line 29, after “case,” to insert the following:

“and for the purposes of complying with *sections 42 and 43*,”.

—An tAire Iompair.

**21.** In page 25, line 35, to delete “name and address of a” and substitute the following:

“title and office address of one”.

—An tAire Iompair.

**22.** In page 26, line 44, to delete “, by leave of the court,”.

—Roisín Shortall.

**23.** In page 28, line 1, to delete “bring into operation” and substitute the following:

“commence construction, installation or assembly of”.

—An tAire Iompair.

**24.** In page 28, lines 14 to 16, to delete all words from and including “the” where it firstly occurs in line 14 down to and including “safety,” in line 16 and substitute the following:

“a new works assessment, or in a revised new works assessment under *subsection (3)*, is not adequate, or the Commission is not satisfied—

(a) that the proposed method of construction, installation or assembly is adequate to ensure, in so far as reasonably practicable, the safety of persons during that construction, installation or assembly, or

(b) as to the expected operational safety of the new works,”.

—An tAire Iompair.

**25.** In page 28, to delete lines 22 to 26 and substitute the following:

“(4) Where, on the basis of the information contained in a new works assessment or in a revised new works assessment under *subsection (3)*, the Commission is satisfied—

(a) that the proposed method of construction, installation or assembly is adequate to ensure, in so far as reasonably practicable, the safety of persons during that construction, installation or assembly, and

(b) as to the expected operational safety of the new works,

the Commission shall communicate in writing its acceptance of a new works assessment to the railway undertaking concerned.

(5) A railway undertaking shall obtain the consent of the Commission before bringing into operation the completed new works.”.

—An tAire Iompair.

**26.** In page 28, line 27, to delete “7” and substitute “21”.

—An tAire Iompair.

**27.** In page 29, to delete lines 13 to 18 and substitute the following:

“(10) It shall be the duty of the Commission to ensure that it carries out its functions under this section as expeditiously as may be, and for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in its performance of its functions under this section.

(11) Without prejudice to the generality of *subsection (10)*, and subject to *subsection (8)*, it shall be the objective of the Commission to ensure that it issues a notice under *subsection (2)* or a communication under *subsection (4)* within—

(a) 28 days, beginning on the date of receipt by the Commission of a new works assessment or a revised new works assessment or receipt of all information or clarifications requested under *subsection (12)*<sup>1</sup>, or

(b) such other period as the Minister may specify by order, after consultation with the Commission and railway undertakings.”.

—An tAire Iompair.

[<sup>1</sup>This is the appropriate reference if amendment no. 25 is accepted.]

**28.** In page 29, line 34, to delete “Commission” and substitute the following:

“Minister, after consultation with the Commission and railway undertakings”.

—An tAire Iompair.

**29.** In page 29, between lines 34 and 35, to insert the following:

“(14) Where a railway undertaking proposes to replace the gates at a specific level crossing with barriers, lights or other automatic devices or appliances, and

(a) it has submitted a new works assessment in respect of those works which has been accepted by the Commission under *subsection (4)*, or

(b) where the Commission has given a generic or specific exemption under *subsection (6)* in respect of such works,

any obligations to make or maintain gates at that crossing do not apply.

(15) Subject to *subsection (16)*, section 23 of the Transport (Miscellaneous Provisions) Act 1971 applies to works under *subsection (14)* as if those works had been required by an order under section 22 of that Act.

(16) *Subsection (15)* does not apply to a level crossing to which section 47 of the Railway Clauses Consolidation Act 1845 or

section 6 of the Railway Clauses Act 1863 applies.”.

—An tAire Iompair.

**30.** In page 31, to delete lines 1 to 6 and substitute the following:

“(10) It shall be the duty of the Commission to ensure that it carries out its functions under this section as expeditiously as may be, and for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in its performance of its functions under this section.

(11) Without prejudice to the generality of *subsection (10)*, and subject to *subsection (8)*, it shall be the objective of the Commission to ensure that it issues a notice under *subsection (2)* or a communication under *subsection (4)* within—

(a) 28 days, beginning on the date of receipt by the Commission of a new rolling stock assessment or a revised new rolling stock assessment or receipt of all information or clarifications requested under *subsection (12)*<sup>1</sup>, or

(b) such other period as the Minister may specify by order, after consultation with the Commission and railway undertakings.”.

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if this amendment is accepted.*]

**31.** In page 32, line 24, to delete “, by leave of the court,”.

—Roisín Shortall.

**32.** In page 35, line 8, to delete “, by leave of the court,”.

—Roisín Shortall.

**33.** In page 40, line 13, after “injury” to insert the following:

“or extensive damage to railway infrastructure or rolling stock or the environment”.

—An tAire Iompair.

**34.** In page 40, line 14, after “Commission” to insert “or the Minister”.

—An tAire Iompair.

**35.** In page 40, line 23, after “means” to insert the following:

“(or within such timeframe as may be specified by the Investigation Unit)”.

—An tAire Iompair.

**36.** In page 41, between lines 3 and 4, to insert the following:

“(3) A person who is being interviewed under *subsection (2)* may, if he or she requests, be accompanied—

(a) where the person is a member of the staff of the railway undertaking, by one other member of the staff,

(b) where the person is a member of the staff of another person engaged by the undertaking, by one other member of that staff,

(c) by one person from an organisation which represents, as the case may be, the staff of the undertaking or the person engaged by the undertaking, or

(d) at his or her own expense, by a legal or other adviser.”.

—An tAire Iompair.

**37.** In page 41, between lines 3 and 4, to insert the following:

“(3) Where a member of staff of a railway undertaking furnishes relevant information to the Commission or an inspector—

(a) following a railway incident,

(b) which, in the opinion of the person, may lead to a railway incident,

the person shall not be subject to disciplinary or any other action by the railway undertaking.”.

—Olivia Mitchell.

**38.** In page 41, between lines 9 and 10, to insert the following:

“(4) A person being questioned under this section shall be entitled to be accompanied by and to be assisted by his or her trade union representative or legal adviser when being so questioned.”.

—Roisín Shortall.

**39.** In page 42, between lines 41 and 42, to insert the following:

“Reporting of risks, etc. by staff of railway undertakings and contractors.

54.—(1) Where a member of staff of a railway undertaking or a person working under a contract of services with a railway undertaking becomes aware of—

(a) information relevant to the investigation of a railway incident, or

(b) a risk arising from the operations of the undertaking which in his or her opinion is not adequately controlled or mitigated by the undertaking,

he or she shall inform the railway undertaking of the information or as the case may be the risk and of his or her opinion.

(2) Where, having informed a railway undertaking under *subsection (1)*, the member of staff or other person is of the opinion that the action, if any, taken by the undertaking is inadequate to comply with the general duty on the undertaking under *section 36* or to comply with any requirement on the undertaking under this Act, he or she may inform the Commission in writing of that opinion.

(3) Where a member of staff of a railway undertaking or other person working under a contract of services with a railway undertaking informs the Commission of his or her opinion in

accordance with *subsection (2)*, he or she shall not be disciplined, be held to be in breach of contract or in any other way disadvantaged for the fact that he or she has informed the Commission.”.

—An tAire Iompair.

**40.** In page 42, lines 43 and 44, to delete “this section” and substitute “*section 56*”.

—An tAire Iompair.

**41.** In page 42, between lines 46 and 47, to insert the following:

“(2) A person being questioned under this section shall have the right to have either a legal representative or Trade Union official present during questioning.”.

—Sean Crowe.

**42.** In page 43, to delete lines 1 to 7 and substitute the following:

“(3) The Minister shall make regulations specifying the classes of railway incidents which shall be investigated by the Investigation Unit.

(4) Subject to *subsection (3)*, the Investigation Unit may, where it considers that an investigation is warranted, investigate any railway incident.”.

—An tAire Iompair.

**43.** In page 43, to delete lines 18 to 21.

—An tAire Iompair.

**44.** In page 44, between lines 21 and 22, to insert the following:

“(5) An inspector of the Commission, who is not a member of the staff of the Investigation Unit, may, at the request of the Chief Investigator and with the approval of the Commission, assist the Chief Investigator with the investigation of a railway incident, where, in the opinion of the Chief Investigator, this does not lead to an actual or potential conflict of interest.”.

—An tAire Iompair.

**45.** In page 44, line 22, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**46.** In page 44, line 31, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**47.** In page 44, to delete lines 33 and 34.

—An tAire Iompair.

**48.** In page 44, line 36, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**49.** In page 44, line 38, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**50.** In page 44, line 45, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**51.** In page 45, line 1, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**52.** In page 45, line 5, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**53.** In page 45, line 8, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**54.** In page 45, line 12, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**55.** In page 45, to delete lines 16 to 20 and substitute the following:

“(13) Where, during the course of its investigation, the Investigation Unit becomes aware of any implications for railway safety which, in its opinion, warrant consideration by a railway undertaking or other person, in advance of the publication of the report of its investigation, the Investigation Unit may make such interim recommendation as it considers to be warranted and feasible for the avoidance of railway incidents or otherwise for the improvement of railway safety. In *section 62* a reference to a recommendation includes a reference to an interim recommendation under this subsection.”.

—An tAire Iompair.

**56.** In page 45, line 21, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**57.** In page 45, between lines 24 and 25, to insert the following:

“(15) The Investigation Unit may, before commencing an investigation under this section, make enquiries to determine whether an investigation is warranted.

(16) A railway undertaking shall, as soon as practicable following notification under *subsection (14)*, provide to the Investigation Unit details of all records held by it, and all information known to it, that may be relevant to an investigation under this section and shall immediately thereafter notify the Investigation Unit of any further relevant records which come into its possession and any further relevant information that becomes known to it.

(17) An answer, statement or declaration given to an inspector as

part of an investigation under this section shall not be admissible as evidence in civil or criminal proceedings.”.

—An tAire Iompair.

**58.** In page 45, line 25 to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**59.** In page 45, line 29, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**60.** In page 45, line 33, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**61.** In page 45, line 36, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**62.** In page 45, line 39, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**63.** In page 45, line 45, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**64.** In page 46, lines 7 and 8, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**65.** In page 46, line 21, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**66.** In page 46, line 27, to delete “Commission” where it firstly occurs and substitute “Investigation Unit”.

—An tAire Iompair.

**67.** In page 46, line 27, to delete “Commission” where it secondly occurs and substitute “Investigation Unit”.

—An tAire Iompair.

**68.** In page 46, line 29, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**69.** In page 46, line 32, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**70.** In page 46, line 33, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

- 71.** In page 46, line 36, to delete “Commission” and substitute “Investigation Unit”.  
—An tAire Iompair.
- 72.** In page 46, line 39, to delete “Commission” and substitute “Investigation Unit”.  
—An tAire Iompair.
- 73.** In page 46, line 40, to delete “Commission” and substitute “Investigation Unit”.  
—An tAire Iompair.
- 74.** In page 46, line 44, to delete “Commission” and substitute “Investigation Unit”.  
—An tAire Iompair.
- 75.** In page 46, line 45, to delete “Commission” and substitute “Investigation Unit”.  
—An tAire Iompair.
- 76.** In page 47, line 2, after “disclose” to insert the following:  
“(other than by way of disclosure to his or her legal or technical advisers subject to an enforceable condition of confidentiality)”.  
—Roisín Shortall.
- 77.** In page 47, lines 3 and 4, to delete “Commission” and substitute “Investigation Unit”.  
—An tAire Iompair.
- 78.** In page 47, line 5, to delete “Commission” and substitute “Investigation Unit”.  
—An tAire Iompair.
- 79.** In page 47, line 14, to delete “Commission” and substitute “Investigation Unit”.  
—An tAire Iompair.
- 80.** In page 47, line 19, to delete “Commission” and substitute “Investigation Unit”.  
—An tAire Iompair.
- 81.** In page 47, line 23, after “Commission” to insert the following:  
“and the Investigation Unit”.  
—An tAire Iompair.
- 82.** In page 47, line 30, after “commissioner” where it secondly occurs to insert “, the Chief Investigator”.  
—An tAire Iompair.
- 83.** In page 48, line 1, after “oath” to insert “or affirmation”.  
—Roisín Shortall.
- 84.** In page 48, lines 5 and 6, to delete “a commissioner or former commissioner,”.  
—An tAire Iompair.

**85.** In page 48, line 8, after “expertise” to insert the following:

“but does not include a serving commissioner, Chief Investigator, or member of the staff of the Commission or Investigation Unit, any person who is or was a member of the staff of a railway undertaking involved in the incident, or any person who, in the opinion of the Minister, has an actual or potential conflict of interest”.

—An tAire Iompair.

**86.** In page 48, between lines 8 and 9, to insert the following:

“(4) A person being questioned under this section shall have the right to have either a legal representative or Trade Union official present during questioning.”.

—Sean Crowe.

**87.** In page 48, between lines 8 and 9, to insert the following:

“(4) A person being questioned under this section shall be entitled to be accompanied by and to be assisted by his or her trade union representative or legal adviser when being so questioned.”.

—Roisín Shortall.

**88.** In page 49, line 23, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**89.** In page 49, line 25, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**90.** In page 49, lines 27 and 28, to delete “Commission” and substitute “Investigation Unit”.

—An tAire Iompair.

**91.** In page 50, to delete lines 12 to 16.

—Roisín Shortall.

**92.** In page 50, line 19, after “Minister” to insert the following:

“and after consultation with the Council, railway undertakings, organisations which represent staff of railway undertakings and such other persons as in the opinion of the Commission may be relevant”.

—An tAire Iompair.

**93.** In page 50, line 19, after “Minister,” to insert the following:

“and after consultation with recognised trade unions or staff associations concerned,”.

—Roisín Shortall.

**94.** In page 50, between lines 22 and 23, to insert the following:

“(b) requirements for the maintenance and inspection of railway infrastructure, rail track, permanent way and rolling stock,

- (c) the maximum carrying capacity for both passenger and freight trains,
- (d) the maximum hours of work and the minimum hours of rest for safety critical staff.”.

—Olivia Mitchell.

**95.** In page 50, between lines 24 and 25, to insert the following:

“(c) requirements or restrictions relating to the management of passengers and other persons on railway property, including in relation to persons standing in trains, the placing of luggage in trains, and emergency evacuation from trains,”.

—An tAire Iompair.

**96.** In page 50, line 27, after “training,” to insert the following:

“and requirements on railway undertakings to facilitate staff holding positions before the entry into operation of such regulations in achieving any required level of training, competency or qualification,”.

—An tAire Iompair.

**97.** In page 50, between lines 37 and 38, to insert the following:

“(h) requirements to avoid accidental obstruction of railway infrastructure by road vehicles by establishing—

- (i) criteria for the apportionment of responsibility and cost of improvements to be made at locations where roads meet, cross or run close to railways,

- (ii) guidelines on enhanced risk assessments and physical measures to reduce risk of vehicles accidentally leaving the road and obstructing railway infrastructure,

- (iii) reporting mechanisms to identify relevant information on incidents involving vehicles, which obstruct railway infrastructure,”.

—Olivia Mitchell.

**98.** In page 50, line 43, after “may,” to insert the following:

“with the consent of the Chief Investigator, and”.

—An tAire Iompair.

**99.** In page 50, line 43, after “Minister” to insert the following:

“, the Minister for the Environment, Heritage and Local Government”.

—An tAire Iompair.

**100.** In page 51, between lines 34 and 35, to insert the following:

“(4) Whenever the Minister, or such other Minister of the Government as the case may be, makes, modifies or revokes any instruments under the statutory provisions referred to in

*subsection (1)*, or publishes proposals for legislative change concerning railway safety and related matters, he or she shall, at the same time, cause copies of any recommendation of the Commission under *subsection (1)(c)* or arising from the Commission's consideration of proposals under *subsection (3)*, to be laid before each House of the Oireachtas.”.

—An tAire Iompair.

**101.** In page 52, line 36, to delete “subject to *section 73(6)*,”.

—An tAire Iompair.

**102.** In page 52, lines 39 and 40, to delete “either alone or in the presence of any other person, as he or she thinks fit,”.

—An tAire Iompair, Roisín Shortall.

**103.** In page 53, between lines 42 and 43, to insert the following:

“(4) A person who is being interviewed under *subsection (3)(k)* or *section 73* may, if he or she requests—

(a) where the person is a member of the staff of the railway undertaking or a person engaged by the undertaking, be accompanied—

(i) by one other member of the staff of the railway undertaking, or of the person engaged by the undertaking,

(ii) by one other person from an organisation which represents, as the case may be, the staff of the undertaking or the person engaged by the undertaking, or

(iii) at his or her own expense, by a legal or other adviser,

or

(b) where the person is not a member of the staff of the railway undertaking or a person engaged by the undertaking, be accompanied, at his or her own expense, by a legal or other adviser.

(5) The sole function of a person permitted to accompany another person in accordance with *subsection (4)* shall be the provision of advice to the person being interviewed.

(6) A person permitted to accompany another person in accordance with *subsection (4)* shall, if directed by the inspector concerned, desist from doing anything which, in the opinion of the inspector, frustrates the orderly and efficient conduct of the interview.”.

—An tAire Iompair.

**104.** In page 54, lines 46 and 47, to delete “purposes of an investigation under *section 57*” and substitute “purpose of exercising his or her functions under this Act”.

—An tAire Iompair.

**105.** In page 55, between lines 3 and 4, to insert the following:

“(6) A person being questioned under this section shall be entitled to be accompanied by and to be assisted by his or her trade union representative or legal adviser when being so questioned.”.

—Roisín Shortall.

**106.** In page 55, to delete lines 4 to 13.

—An tAire Iompair.

**107.** In page 57, between lines 7 and 8, to insert the following:

“(5) In considering an appeal against an improvement notice, the Court shall take into account the general duties of railway undertakings and others under *sections 36 and 37*.”.

—An tAire Iompair.

**108.** In page 57, between lines 17 and 18, to insert the following:

“(7) A railway undertaking shall not use commercial considerations as a cause for not complying with *section 36*.”.

—Olivia Mitchell.

**109.** In page 59, between lines 2 and 3, to insert the following:

“(6) In considering an appeal against a prohibition notice, the Court shall take into account the general duties of railway undertakings and others under *sections 36 and 37*.”.

—An tAire Iompair.

**110.** In page 62, line 2, to delete “or” where it secondly occurs and substitute “of”.

—An tAire Iompair.

**111.** In page 62, between lines 38 and 39, to insert the following:

“(v) the nature and mix of expertise, skills and experience that is desirable in a candidate for appointment as a commissioner, and”.

—An tAire Iompair.

**112.** In page 63, to delete lines 14 to 43, to delete pages 64 to 70 and substitute the following:

## “PART 9<sup>1</sup>

### INTOXICANTS AND PERSONS WORKING ON RAILWAY INFRASTRUCTURE

Commencement  
(*Part 9<sup>1</sup>*).

83.—This Part comes into operation on such day or days as the Minister may appoint by order either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.”.

—An tAire Iompair.

[<sup>1</sup>The proposed new Part comprehends the inclusion of amendment nos. 112 to 119 inclusive.]

**113.** In page 63, between lines 13 and 14, to insert the following:

“Interpretation  
(Part 9).

84.—(1) In this Part—

“analysis” includes any operation used in determining the presence (if any) of a drug in a specimen of blood or urine, and cognate words shall be construed accordingly;

“analysis body” means a person who, in the opinion of a railway undertaking concerned and the Commission, is competent to carry out an analysis of a sample and is independent of the railway undertaking concerned and of any other railway undertaking;

“authorised person” means a person appointed to be an authorised person under *section 94*<sup>1</sup>;

“code of conduct” means the code of conduct drawn up by a railway undertaking under *section 87(1)(a)*<sup>2</sup> or amended under *section 87(10)*<sup>2</sup> and accepted by the Commission under *section 87(5)*<sup>2</sup>;

“drug” includes all drugs whether legally obtained or otherwise;

“railway undertaking” means a railway undertaking to which this Part applies;

“safety critical task” has the meaning assigned to it in *Part 10*<sup>3</sup>;

“safety critical worker” has the meaning assigned to it in *Part 10*<sup>3</sup>;

“sample” means the provision of a specimen of blood or urine in accordance with sampling procedures;

“sampling procedures” means procedures established under *section 87(1)(b)*<sup>2</sup> or amended under *section 87(10)*<sup>2</sup> and accepted by the Commission under *section 87(5)*<sup>2</sup>.”.

—An tAire Iompair.

[<sup>1</sup>This is the appropriate reference if amendment no. 127 is accepted.]

[<sup>2</sup>These are the appropriate references if amendment no. 116 is accepted.]

[<sup>3</sup>These are the appropriate references if amendment no. 124 is accepted.]

**114.** In page 63, between lines 13 and 14, to insert the following:

“Application  
(Part 9).

85.—(1) This Part applies to a railway undertaking (other than a heritage railway) which operates railway infrastructure or operates trains on a railway infrastructure where such infrastructure is used, or intended to be used, wholly or partly for the carriage of members of the public or freight.

(2) This Part does not apply to a railway undertaking which operates railway infrastructure or operates trains on a railway infrastructure, where such infrastructure is used or intended to be used solely for industrial use.

(3) This Part applies to a safety critical worker.”.

—An tAire Iompair.

**115.** In page 63, between lines 13 and 14, to insert the following:

“Duties of safety critical workers and railway undertakings.

86.—(1) It is the duty of a safety critical worker and is deemed to be a term of his or her contract of employment or contract of services (whether made before or after the passing of this Act) with a railway undertaking or with a person who has a contract of services with a railway undertaking—

- (a) not to perform a safety critical task while being unfit,
- (b) not to make himself or herself available to perform a safety critical task by attending at work while being unfit,
- (c) not to do anything that is an offence under *section 96*<sup>1</sup>, and
- (d) to comply with the railway undertaking’s code of conduct and sampling procedures.

(2) It is the duty of a railway undertaking to take reasonable steps to ensure that a safety critical worker complies with his or her duties under *subsection (1)*.

(3) In this section, ‘unfit’ has the meaning assigned to it in *section 96*<sup>1</sup>.”.

—An tAire Iompair.

[<sup>1</sup>This is the appropriate reference if amendment no. 129 is accepted.]

**116.** In page 63, between lines 13 and 14, to insert the following:

“Codes of conduct, etc. in relation to intoxicants.

87.—(1) Subject to *subsection (2)*, in order to fulfil its duty under *section 86(2)*<sup>1</sup>, a railway undertaking shall, in consultation with organisations which represent the staff of its undertaking—

- (a) draw up a code of conduct for safety critical workers to be observed by each of them while at work in relation to intoxicants,
- (b) establish sampling procedures in relation to the provision of samples under *section 88*<sup>2</sup> by safety critical workers while at work or following a railway incident, and
- (c) provide counselling and other assistance (in this Part referred to as ‘support services’) to safety critical workers on the request of such workers or in respect of such persons who fail to comply with *section 86(1)*<sup>1</sup> in order to assist those persons to comply with that subsection in the future.

(2) Without prejudice to the generality of *subsection (1)(a)*, a code of conduct shall include provisions—

- (a) providing for the course of action (including dismissal, termination of contract, suspension, demotion,

prohibition on working at the undertaking or performing specified safety critical tasks or mandatory attendance at counselling) to be taken where a safety critical worker—

(i) has failed to comply with his or her duties under *section 86(1)*<sup>1</sup>,

(ii) has failed, without reasonable excuse, to provide a sample under *section 88*<sup>2</sup> or comply with sampling procedures under this section, or

(iii) is convicted of an offence under *Chapter 2 of Part 10*<sup>3</sup>,

and

(b) providing for procedures relating to appeals under *section 89*<sup>4</sup>.

(3) Without prejudice to the generality of *subsection (1)(b)*, sampling procedures shall provide for—

(a) matters relating to the circumstances in which sampling may be undertaken under *section 88*<sup>2</sup>,

(b) the caution to be given to a safety critical worker who is required under *section 88*<sup>2</sup> to provide a sample, as to the consequences of failing, without reasonable excuse, to give such sample,

(c) the means of sampling,

(d) the location where a sample may be taken,

(e) analysis of a sample by an analysis body,

(f) privacy in relation to sampling,

(g) procedures for the protection of the integrity of a sample,

(h) division of any specimen of blood and urine into 2 parts and provision of one part to a person being sampled,

(i) a certificate to prove the results of the analysis of a sample and presumption as to the accuracy of the results of the sample so certified, and

(j) grievance procedures in relation to sampling.

(4) A railway undertaking shall, within 6 months of the commencement of this Part or such further period, at the discretion of the Commission, being not more than 12 months from such commencement, submit to the Commission for its acceptance drafts of a code of conduct, sampling procedures and details of support services to be provided.

(5) The Commission shall issue a notification in writing accepting a code of conduct, sampling procedures or details of support

services submitted under *subsection (4)* where the Commission is satisfied that—

- (a) it is sufficient to enable the railway undertaking to discharge its duty under *section 86(2)*<sup>1</sup>, and
- (b) the undertaking has adequately consulted with organisations which represent the staff of its undertaking.

(6) Where the Commission is not satisfied with any draft code of conduct, sampling procedures or details of support services submitted to it under *subsection (4)*, the Commission shall notify in writing the railway undertaking of its dissatisfaction and the reasons for the dissatisfaction, and the railway undertaking, on receipt of a notification under this subsection shall, before re-submitting to the Commission, within such period as may be specified to it by the Commission, the code, sampling procedures or details, take the action necessary to address the reasons stated in the notification and shall consult with organisations which represent the staff of its undertaking in relation to the said matters.

(7) On service of a notification from the Commission under *subsection (6)*, a railway undertaking shall, within 6 months of the date of the notification, ensure that the code of conduct and sampling procedures are adopted and implemented and support services are provided.

(8) A railway undertaking shall take reasonable steps to ensure that the code of conduct, sampling procedures and details of support services provided by it and an abstract of this Part are displayed in a prominent place in the undertaking and brought to the attention of safety critical workers.

(9) A railway undertaking shall give a copy of the code of conduct, sampling procedures or details of support services provided by it to a safety critical worker upon the request of that worker.

(10) A railway undertaking may amend a code of conduct drawn up, sampling procedures or details of support services provided by it, in consultation with organisations which represent the staff of its undertaking, and *subsections (4) to (9)* shall apply to any such amendment or alteration with such modifications as are necessary.

(11) A railway undertaking to which this Part and *section 94*<sup>5</sup> apply, shall, within 3 months of the end of each year, make a report to the Commission on the implementation by it of the measures provided for in this Part and *Part 10*<sup>l</sup>. The report shall contain such particulars as the Commission may direct.

(12) The Commission shall, within 2 months of receipt of a report under *subsection (11)*, publish details of the report, but without giving information of a personal, confidential or prejudicial nature.

(13) The Commission shall, before publishing details of a report in accordance with *subsection (12)*, lay a copy of those details

before each House of the Oireachtas.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendment no. 115 is accepted.*]

[<sup>2</sup>*These are the appropriate references if amendment no. 117 is accepted.*]

[<sup>3</sup>*This is the appropriate reference if amendment no. 124 is accepted.*]

[<sup>4</sup>*This is the appropriate reference if amendment no. 118 is accepted.*]

[<sup>5</sup>*This is the appropriate reference if amendment no. 127 is accepted.*]

**117.** In page 63, between lines 13 and 14, to insert the following:

“Sampling for  
drugs.

88.—(1) An authorised person may require a safety critical worker to provide a sample of blood or urine, in accordance with the sampling procedures of the railway undertaking concerned—

(a) where he or she is of the opinion, or on the request of an inspector who is of the opinion, that a safety critical worker, who is performing a safety critical task or who has made himself or herself available to perform a safety critical task by attending at work, has a drug in his or her body to such an extent that he or she is in breach of his or her duty under *section 86(1)*<sup>1</sup>,

(b) where a railway incident occurs and he or she is of the opinion, or on the request of an inspector who is of the opinion, that—

(i) the safety critical worker concerned was performing or had performed a safety critical task on the railway infrastructure, or on the train, involved with the incident, or

(ii) the safety critical worker concerned failed to perform a safety critical task expected of him or her, on the railway infrastructure, or on a train, involved with the incident,

or

(c) for the safe operation of the undertaking, at random and in circumstances that are reasonable, where that worker is performing a safety critical task or has made himself or herself available to perform a safety critical task by attending at work.

(2) Only a medical practitioner may take a specimen of blood or be provided with a specimen of urine.

(3) It is the duty of a safety critical worker if a requirement to provide a sample is made of him or her under *subsection (1)*, unless he or she has reasonable excuse, to provide the sample.

(4) While a safety critical worker is at a hospital as a patient, he or she shall not be required to provide a sample unless the medical practitioner in immediate charge of his or her case has been notified by an authorised person of the proposal to make the

requirement and—

- (a) if the requirement is then made, it shall be for the provision of a sample at the hospital, but
- (b) if the medical practitioner objects, on the ground that the requirement would be prejudicial to the proper care and treatment of the patient, the requirement shall not be made.

(5) A sample provided to an authorised person under this section shall be sent by him or her to an analysis body for the purposes of analysing the sample for drugs and the analysis body shall issue a certificate to the authorised person in relation to the results of the analysis.

(6) An analysis body may charge the railway undertaking concerned a fee in respect of any analysis made and certificate issued by it under *subsection (5)*.

(7) The results of any analysis under *subsection (5)* in respect of a sample taken under this section shall, at the request of the Investigation Unit, be given to it by the railway undertaking for whom it was made for the purposes of an investigation by the Unit under *section 57*.”.

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 115 is accepted.*]

**118.** In page 63, between lines 13 and 14, to insert the following:

“Disciplinary  
measures.

89.—(1) Where an authorised person makes a complaint to the management of the railway undertaking which appointed him or her that—

- (a) a safety critical worker has been convicted of an offence under *Chapter 2*<sup>1</sup> of *Part 10*<sup>2</sup>, or
- (b) in his or her opinion, a safety critical worker has—
  - (i) failed to comply with his or her duty under *section 86(1)*<sup>3</sup>,
  - (ii) failed without reasonable excuse to comply with his or her duty to provide a sample under *section 88*<sup>4</sup>, or
  - (iii) contravened *subsection (6)*,

the railway undertaking concerned shall—

- (c) in the case of a complaint under *paragraph (a)*, satisfy itself as to the fact of that person’s conviction, and if the code of conduct so provides, inquire at an oral disciplinary hearing into the circumstances of that conviction, and
- (d) in the case of a complaint under *paragraph (b)*, satisfy itself as to the facts and circumstances of the matter at

an oral disciplinary hearing.

(2) Where, in accordance with *subsection (1)(c)* or *(d)*, a railway undertaking is satisfied that a safety critical worker—

(a) has been convicted of an offence under *Chapter 2<sup>1</sup>* of *Part 10<sup>2</sup>*, or

(b) has—

(i) failed to comply with his or her duty under *section 86(1)<sup>3</sup>*,

(ii) failed without reasonable excuse, to comply with his or her duty to provide a sample under *section 88<sup>4</sup>*, or

(iii) contravened *subsection (6)*,

it shall decide the course of action to be taken (including dismissal, termination of contract, suspension, demotion, prohibition on working at the undertaking or working at safety critical tasks, or mandatory attendance at counselling) in accordance with the code of conduct.

(3) A safety critical worker who is the subject of a disciplinary hearing under this section may represent himself or herself or be represented by another person at the hearing.

(4) Where a railway undertaking imposes any sanction against a safety critical worker as a result of a hearing under this section, it shall afford the worker an opportunity, at his or her choice, to appeal to it or to such other person or persons nominated by the undertaking against the sanction.

(5) A person nominated under *subsection (4)* shall be independent of the undertaking and shall not be a member of its staff or connected to it or be a member of the staff of or connected to another railway undertaking.

(6) A safety critical worker shall not take or attempt to take any action with the intention of frustrating disciplinary measures under this section.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendment no. 128 is accepted.*]

[<sup>2</sup>*These are the appropriate references if amendments nos 124-128 are accepted.*]

[<sup>3</sup>*These are the appropriate references if amendment no. 115 is accepted.*]

[<sup>4</sup>*These are the appropriate references if amendment no. 117 is accepted.*]

**119.** In page 63, between lines 13 and 14, to insert the following:

“Proof of certificate of analysis.

90.—In any disciplinary hearing under *section 89<sup>1</sup>* or in any proceedings, a certificate, issued under *section 88(5)<sup>2</sup>*, purporting to be signed by a person employed or engaged in the analysis of samples provided under *section 88(1)<sup>2</sup>* at an analysis body, stating the capacity in which the person is so employed or engaged and

stating any one or more of the following, namely—

- (a) that the person received the sample sent under *section 88 (5)*<sup>2</sup> to the analysis body,
- (b) that, for such period as is specified in the certificate, the person had in his or her custody the sample so sent,
- (c) that the person gave to such other person as is specified in the certificate the sample so sent,
- (d) that the person carried out the analysis of the sample, and
- (e) the results of the analysis,

shall, unless the contrary is shown be evidence of the matters stated in the certificate.”.

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 118 is accepted.*]

[<sup>2</sup>*These are the appropriate references if amendment no. 117 is accepted.*]

**120.** In page 63, line 25, after “concerned” to insert “, the union concerned”.

—Sean Crowe.

**121.** In page 64, lines 10 and 11, to delete all words from and including “(other” in line 10 down to and including “railway)” in line 11.

—Sean Crowe.

**122.** In page 68, lines 3 and 4, to delete all words from and including “persons” in line 3 down to and including “sons” in line 4 and substitute the following:

“professionally qualified medical practitioners acceptable to the Trade Unions, to be called on”.

—Sean Crowe.

**123.** In page 68, to delete lines 31 to 34.

—Sean Crowe, Roisín Shortall.

**124.** In page 71, before line 1, to insert the following:

“PART 10<sup>1</sup>

OFFENCES BY PERSONS WORKING ON RAILWAY INFRASTRUCTURE

*Chapter 1*

Preliminary

Commencement,  
(Part 10<sup>1</sup>).

91.—This Part comes into operation on such day or days as the Minister may appoint by order either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.”.

**125.** In page 71, before line 1, to insert the following:

Definitions,  
(Part 10).

“92.—(1) In this Part—

“analysis” includes any operation used in determining the concentration of alcohol in a specimen of breath, blood or urine, and any operation used in determining the presence (if any) of a drug or drugs in a specimen of blood or urine, and cognate words shall be construed accordingly;

“Bureau” means Medical Bureau of Road Safety;

“designated” means designated by a member of the Garda Síochána;

“prescribed” means prescribed in regulations made by the Minister;

“safety critical task” means a task specified in *paragraph (i), (ii) or (iii)* when performed in the course of the operation of a railway undertaking, and—

- (a) in the course of a person’s employment with the undertaking,
- (b) under a contract of services with the undertaking,
- (c) in the course of a person’s employment with a person who has a contract of services with the undertaking, or
- (d) voluntarily or otherwise,

namely—

- (i) driving a train, or in any other way controlling or affecting the movement of a train,
- (ii) controlling, affecting or managing, the movement of persons on a train, on a platform, across a level crossing, or, the boarding of, or alighting from, a train of persons, or
- (iii) working in a maintenance capacity (as defined in *subsection (2)*) or as a supervisor of, or look-out for, persons working in such capacity;

“safety critical worker” means a person who performs a safety critical task.

(2) For the purposes of this Part and *Part 9*<sup>1</sup>, a person works in the course of the operation of a railway undertaking in a maintenance capacity, if his or her work in the operation involves installation, maintenance, repair, alteration or inspection of, railway infrastructure or trains, or involves coupling or uncoupling trains or performing a pre-departure examination of trains.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendments nos. 112 to 119 inclusive are accepted.*]

**126.** In page 71, before line 1, to insert the following:

“Power of Garda Síochána to enter railway property and to stop train.

93.—(1) A member of the Garda Síochána may enter railway property for the purposes of enforcing this Part.

(2) A member of the Garda Síochána may request a railway undertaking to stop a train at a convenient and safe location for the purposes of this Part.

(3) In exercising a power under *subsection (2)*, a member of the Garda Síochána shall take all reasonable steps to avoid disruption to the operations of the railway undertaking concerned.”.

—An tAire Iompair.

**127.** In page 71, before line 1, to insert the following:

“Authorised persons.

94.—(1) This section applies to a railway undertaking (other than a heritage railway) which operates railway infrastructure or operates trains on a railway infrastructure where such infrastructure is used, or intended to be used, wholly or partly for the carriage of members of the public or freight.

(2) This section does not apply to a railway undertaking which operates railway infrastructure or operates trains on a railway infrastructure, where such infrastructure is used, or is intended to be used, solely for industrial use.

(3) A railway undertaking to whom this section applies shall appoint persons whom it, with the consent of the Commission, considers are suitably qualified to be authorised persons for the purpose of performing functions under this Part and *Part 9*<sup>1</sup>, on its behalf.

(4) An authorised person is not entitled to perform a function under this Part or *Part 9*<sup>1</sup> unless he or she has received training and instruction, which, in the opinion of the undertaking concerned, is such as will provide appropriate guidance to him or her in the performance of the function.

(5) An authorised person, shall, on his or her appointment under this section, be furnished by the railway undertaking concerned with a warrant of his or her appointment as an authorised person and when performing any function conferred on an authorised person under this Part or *Part 9*<sup>1</sup>, shall if requested by any person affected, produce such warrant to that person for inspection.

(6) A statement by an employee involved in the management of the railway undertaking concerned that, a warrant of appointment as an authorised person was furnished to a particular person, and such person had received training and instruction which, in the opinion of the undertaking concerned, provided appropriate guidance to such person in the performance by him or her of a function under this Part or *Part 9*<sup>1</sup>, shall, until the contrary is

proved, be sufficient evidence in any proceedings of the fact of, the furnishing of such warrant to such person, receipt by him or her of such training and instruction, and the making of the statement by an employee so involved in the undertaking.

(7) A warrant furnished by an undertaking under *subsection (5)* shall be in such form and contain such particulars as may, from time to time, be specified by the Commission.

(8) Subject to the Fire Services Act 1981, an authorised person shall have unhampered access to a railway incident site for the purposes of this Part and *Part 9*<sup>1</sup>.

(9) Subject to the Fire Services Act 1981, a railway undertaking shall, for the purposes of this Part and *Part 9*<sup>1</sup>, ensure that an authorised person appointed by it has unhampered access to any railway property under its management or control.

(10) An authorised person may be referred to by the undertaking concerned by such title as it decides.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendments nos. 112 to 119 inclusive are accepted.*]

**128.** In page 71, before line 1, to insert the following:

“*Chapter 2*

Intoxicants

Functions of the  
Bureau in relation to  
analysis under  
Chapter.

95.—(1) The Bureau shall perform the functions assigned to it by this Chapter.

(2) In particular, and without prejudice to the generality of *subsection (1)*, the Bureau shall arrange for—

(a) the receipt and analysis of specimens of blood and urine forwarded to the Bureau under this Part and the issue of reports on such analyses,

(b) the determination, in respect of such specimens, of the concentration of alcohol in the blood or urine and of the presence (if any) of a drug or drugs in the blood or urine, and

(c) the issue of certificates required under this Chapter to be issued by the Bureau.

(3) The Director shall exercise general supervision in relation to the performance by the Bureau of the functions assigned to it by or under this Chapter.

(4) No action or other legal proceedings lie (except in the case of wilful neglect or default) against the Director or any member, officer or employee of the Bureau by reason of, or arising out of, any analysis or determination under this Part.”.

—An tAire Iompair.

**129.** In page 71, before line 1, to insert the following:

“Offences involving  
intoxicants by  
persons working on  
railway property.

96.—(1) A safety critical worker who performs a safety critical task, or who makes himself or herself available to perform such a task by attending at work, while being unfit, is guilty of an offence.

(2) A safety critical worker who performs a safety critical task, or who makes himself or herself available to perform such a task by attending at work, while there is present in his or her body a quantity of alcohol such that, within 3 hours after so performing that task or of attending at work, the concentration of alcohol—

(a) in his or her blood will exceed a concentration of 80 milligrammes of alcohol per 100 millilitres of blood,

(b) in his or her urine will exceed a concentration of 107 milligrammes of alcohol per 100 millilitres of urine, or

(c) in his or her breath will exceed a concentration of 35 microgrammes of alcohol per 100 millilitres of breath,

is guilty of an offence.

(3) The Minister may, by regulations, provide for other amounts, for the time being, to stand in lieu of any of the amounts of alcohol concentration specified in *subsection (2)(a), (b) or (c)*.

(4) A draft of every regulation proposed to be made under *subsection (3)* shall be laid before each House of the Oireachtas and the regulation shall not be made until a resolution approving of the draft has been passed by each such House.

(5) In this section and in *section 86<sup>1</sup>*, ‘unfit’ means, in relation to a safety critical worker, being under the influence of an intoxicant to such an extent that his or her ability to perform a safety critical task, without exposing a person (including himself or herself) to danger or risk of danger, is for the time being impaired.”

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 115 is accepted.*]

**130.** In page 71, before line 1, to insert the following:

“Obligation to  
provide specimen of  
breath.

97.—(1) Where an authorised person or a member of the Garda Síochána is of the opinion—

(a) that a safety critical worker, who is performing a safety critical task or who has made himself or herself available to perform a safety critical task by attending at work,

(i) has consumed intoxicating liquor, or

(ii) is committing or has committed an offence under *section 96<sup>1</sup>*,

or

(b) where a railway incident occurs, that—

- (i) a safety critical worker was performing or had performed a safety critical task on the railway infrastructure, or on the train, involved with the incident, or
- (ii) a safety critical worker failed to perform a safety critical task expected of him or her, on the railway infrastructure, or on a train, involved with the incident,

or at the request of an inspector who is of such opinion, he or she may make a requirement of the safety critical worker under *subsection (3)*.

(2) Without prejudice to *subsection (1)*, a member of the Garda Síochána or an authorised person may, for the safe operation of a railway undertaking, at random and in circumstances that are reasonable, make a requirement under *subsection (3)* of a safety critical worker who is performing a safety critical task or who has made himself or herself available to perform a safety critical task by attending at work.

(3) A member of the Garda Síochána or an authorised person, may, in the circumstances referred to in *subsection (1)* or (2), require a safety critical worker—

- (a) to provide, or to accompany him or her to a place (including a vehicle) at or in the vicinity of the railway infrastructure concerned and there require the worker to provide, by exhaling into an apparatus for indicating the presence of alcohol in the breath, a specimen of his or her breath, or
- (b) where the authorised person or member does not have such apparatus with him or her, to remain (for not more than one hour), at an appropriate place on the railway infrastructure concerned or at the scene of the incident, in his or her presence or in the presence of another authorised person or member of the Garda Síochána until such an apparatus becomes available to him or her and the authorised person or member may then require the worker, to provide by exhaling into such an apparatus, a specimen of his or her breath.

(4) Where an authorised person is of the opinion that a safety critical worker, who is performing a safety critical task or who has made himself or herself available to perform a safety critical task by attending at work, has consumed intoxicating liquor, or is committing or has committed an offence under *section 96<sup>1</sup>*, and where a member of the Garda Síochána is not present, the authorised person shall require the safety critical worker concerned to remain (for not more than one hour), as the case may be, at an appropriate place on the railway infrastructure concerned or at the scene of the incident, in his or her presence or in the presence of another authorised person, pending the arrival of a

member.

(5) A member of the Garda Síochána or an authorised person making a requirement under *subsection (3)* may indicate the manner in which the safety critical worker is to comply with the requirement.

(6) A safety critical worker who refuses or fails, to comply immediately with a requirement under this section, or to comply immediately with such a requirement in a manner indicated by a member of the Garda Síochána or an authorised person, is guilty of an offence.

(7) In a prosecution for an offence under this Chapter, it shall be presumed, until the contrary is shown, that an apparatus provided by a member of the Garda Síochána or an authorised person for the purpose of enabling a person to provide a specimen of breath under this section is an apparatus for indicating the presence of alcohol in the breath.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendment no. 129 is accepted.*]

**131.** In page 71, before line 1, to insert the following:

“Arrest without warrant.

98.—(1) A member of the Garda Síochána may arrest a safety critical worker without warrant if he or she has reasonable cause to suspect that that worker is committing or has committed an offence under *section 96*<sup>1</sup> or *97*<sup>2</sup>.

(2) For the purpose of arresting a safety critical worker under *subsection (1)*, where a member of the Garda Síochána has reasonable cause to suspect that the worker is committing or has committed an offence under *section 96*<sup>1</sup> or *97*<sup>2</sup>, the member may enter (if need be by force) any place where that worker is or where the member, with reasonable cause, suspects him or her to be.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendment no.129 is accepted.*]

[<sup>2</sup>*These are the appropriate references if amendment no.130 is accepted.*]

**132.** In page 71, before line 1, to insert the following:

“Obligation to provide specimen following arrest.

99.—(1) Where a safety critical worker is arrested under *section 98*<sup>1</sup>, a member of the Garda Síochána may, at a Garda Síochána station, at his or her discretion, do either or both of the following:

(a) require the worker to provide, by exhaling into an apparatus for determining the concentration of alcohol in the breath, 2 specimens of his or her breath and may indicate the manner in which he or she is to comply with the requirement,

(b) require the worker either—

(i) to permit a designated medical practitioner to take from the worker a specimen of his or her blood, or

- (ii) at the option of the worker, to provide for the designated medical practitioner a specimen of his or her urine.

(2) If the medical practitioner referred to in *subsection (1)(b)* states in writing that he or she is unwilling, on medical grounds, to take from the safety critical worker a specimen of the worker's blood or be provided by the worker with a specimen of the worker's urine, the member may make a requirement of the worker under *subsection (1)(b)* in relation to the specimen other than that to which the first requirement related.

(3) Subject to *section 107*<sup>2</sup>, a person who refuses or fails to comply immediately with a requirement under *subsection (1)(a)* is guilty of an offence.

(4) Subject to *section 107*<sup>2</sup>, a person who, following a requirement under *subsection (1)(b)*—

(a) refuses or fails to comply with the requirement, or

(b) refuses or fails to comply with a requirement of a designated medical practitioner in relation to the taking under that subsection of a specimen of blood or the provision under that subsection of a specimen of urine,

is guilty of an offence.

(5) In a prosecution for an offence under this Chapter it shall be presumed, until the contrary is shown, that an apparatus provided by a member of the Garda Síochána for the purpose of enabling a person to provide 2 specimens of breath pursuant to this section is an apparatus for determining the concentration of alcohol in the breath.”.

—An tAire Iompair.

[<sup>1</sup>This is the appropriate reference if amendment no. 131 is accepted.]

[<sup>2</sup>These are the appropriate references if amendment no. 140 is accepted.]

**133.** In page 71, before line 1, to insert the following:

“Obligation to provide blood or urine specimen while in hospital.

100.—(1) Where a railway incident occurs in consequence of which a safety critical worker is injured, or claims or appears to have been injured, and is admitted to, or attends at, a hospital and a member of the Garda Síochána is of opinion that, at the time of the incident—

(a) the worker was working on the railway infrastructure or on a train involved in the incident, and

(b) the worker had consumed an intoxicant,

then the member may, in the hospital, require the worker either—

(i) to permit a designated medical practitioner to take from the worker a specimen of his or her blood, or

(ii) at the option of the worker, to provide for the designated

medical practitioner a specimen of his or her urine.

(2) If the medical practitioner referred to in *subsection (1)* states in writing that he or she is unwilling, on medical grounds, to take from the safety critical worker a specimen of the worker's blood under *subsection (1)(i)* or be provided by the worker with the specimen of the worker's urine under *subsection (1)(ii)*, the member may make a requirement of the worker under *subsection (1)* in relation to the specimen other than that to which the first requirement related.

(3) Subject to *section 107<sup>1</sup>*, a person who, following a requirement under *subsection (1)*—

(a) refuses or fails to comply with the requirement, or

(b) refuses or fails to comply with a requirement of a designated medical practitioner in relation to the taking under that subsection of a specimen of blood or the provision under that subsection of a specimen of urine,

is guilty of an offence.

(4) Notwithstanding *subsection (2)*, it is not an offence for a person to refuse or fail to comply with a requirement under *subsection (1)* where, following his or her admission to, or attendance at, a hospital, the person comes under the care of a medical practitioner and the medical practitioner refuses, on medical grounds, to permit the taking or provision of the specimen concerned.”.

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 140 is accepted.*]

**134.** In page 71, before line 1, to insert the following:

“Detention of intoxicated persons where a danger to themselves or others.

101.—Where a safety critical worker is at a Garda Síochána station having been arrested under *section 98<sup>1</sup>*, section 16 of the Road Traffic Act 1994 applies and references in that section to subsection (1) of that Act are to be read as including references to this section.”.

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 131 is accepted.*]

**135.** In page 71, before line 1, to insert the following:

“Procedure following provision of breath specimen under *section 99*.

102.—(1) Where, consequent on a requirement under *section 99<sup>1</sup>* of him or her, a safety critical worker provides 2 specimens of his or her breath and the apparatus referred to in that section determines the concentration of alcohol in each specimen, in case the apparatus determines that each specimen has—

(a) the same concentration of alcohol, either specimen, or

(b) a different concentration of alcohol, the specimen with the lower concentration of alcohol,

shall be taken into account for the purposes of *section 96(2)<sup>2</sup>* and

the other specimen shall be disregarded.

(2) Where the apparatus referred to in *section 99*<sup>1</sup> determines that in respect of the specimen of breath to be taken into account the safety critical worker may have contravened *section 96(2)*<sup>2</sup> he or she shall be supplied immediately by a member of the Garda Síochána with 2 identical statements, automatically produced by the apparatus in the prescribed form and duly completed by the member in the prescribed manner, stating the concentration of alcohol in the said specimen determined by the apparatus.

(3) On receipt of the statements, the safety critical worker shall on being requested so to do by the member—

(a) immediately acknowledge such receipt by placing his or her signature on each statement, and

(b) return either of the statements to the member.

(4) A person who refuses or fails to comply with *subsection (3)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000 or to imprisonment for a term not exceeding 1 month, or to both.

(5) *Section 106(1)*<sup>3</sup> applies to a statement under this section as respects which there has been a failure to comply with *subsection (3)(a)* as it applies to a duly completed statement under this section.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendment no. 132 is accepted.*]

[<sup>2</sup>*These are the appropriate references if amendment no. 129 is accepted.*]

[<sup>3</sup>*This is the appropriate reference if amendment no. 139 is accepted.*]

**136.** In page 71, before line 1, to insert the following:

“Procedure to be followed relating to specimens taken or provided.

103.—(1) Where under this Chapter a designated medical practitioner has taken a specimen of blood from a safety critical worker or has been provided by the worker with a specimen of his or her urine, the medical practitioner shall divide the specimen into 2 parts, place each part in a container which he or she shall immediately seal and complete the form prescribed for the purposes of this section.

(2) Where a specimen of blood or urine of a safety critical worker has been divided into 2 parts pursuant to *subsection (1)*, a member of the Garda Síochána shall offer to the worker one of the sealed containers together with a statement in writing indicating that he or she may retain either of the containers.

(3) As soon as practicable after *subsection (2)* has been complied with, a member of the Garda Síochána shall cause to be forwarded to the Bureau the completed form referred to in *subsection (1)*, together with the relevant sealed container or, where the safety critical worker has declined to retain one of the sealed containers, both relevant sealed containers.

(4) In a prosecution for an offence under *section 96*<sup>1</sup> it shall be presumed, until the contrary is shown, that *subsections (1) to (3)* have been complied with.”.

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 129 is accepted.*]

**137.** In page 71, before line 1, to insert the following:

“Procedure at  
Bureau regarding  
specimens.

104.—(1) As soon as practicable after it has received a specimen forwarded to it under *section 103*<sup>1</sup>, the Bureau shall analyse the specimen and determine the concentration of alcohol or (as may be appropriate) the presence of a drug or drugs in the specimen.

(2) Where the Bureau receives 2 specimens of blood so forwarded together in relation to the same safety critical worker or 2 specimens of urine so forwarded together in relation to the same worker, it shall be sufficient compliance with *subsection (1)* for the Bureau to make an analysis of and determination in relation to one of the 2 specimens of blood or (as may be appropriate) one of the 2 specimens of urine.

(3) As soon as practicable after compliance with *subsection (1)*, the Bureau shall forward to the Garda Síochána station from which the specimen analysed was forwarded a completed certificate in the prescribed form for the purpose of this section and shall forward a copy of the completed certificate to the safety critical worker who is named on the relevant form under *section 103*<sup>1</sup> as the person from whom the specimen was taken or who provided it.

(4) In a prosecution for an offence under *section 96*<sup>2</sup>, it shall be presumed, until the contrary is shown, that *subsections (1) to (3)* have been complied with.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendment no. 136 is accepted.*]

[<sup>2</sup>*This is the appropriate reference if amendment no. 129 is accepted.*]

**138.** In page 71, before line 1, to insert the following:

“Frustrating  
prosecution.

105.—(1) A safety critical worker shall not take or attempt to take any action (including consumption of alcohol but excluding a refusal or failure to comply with a requirement under *section 99*<sup>1</sup>) with the intention of frustrating a prosecution under *section 96*<sup>2</sup>.

(2) A person who contravenes *subsection (1)* is guilty of an offence.

(3) Where, on the hearing of a charge for an offence under *section 96*<sup>2</sup>, the court is satisfied that any action taken by the defendant (including consumption of alcohol but excluding a refusal or failure to provide a specimen of his or her breath or urine or to permit the taking of a specimen of his or her blood) was taken with the intention of frustrating a prosecution under that section, the court may find him or her guilty of an offence under *subsection (2)*.’.

—An tAire Iompair.

[<sup>1</sup>This is the appropriate reference if amendment no. 132 is accepted.]

[<sup>2</sup>These are the appropriate references if amendment no. 129 is accepted.]

**139.** In page 71, before line 1, to insert the following:

“Evidence in proceedings under this Chapter.

106.—(1) A duly completed statement purporting to have been supplied under *section 102(2)*<sup>1</sup> is, until the contrary is shown, sufficient evidence in any proceedings under this Chapter, 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 member of the Garda Síochána concerned with the requirements imposed on him or her by or under this Chapter prior to and in connection with the supply by him or her under *section 102(2)*<sup>1</sup> of such statement.

(2) A duly completed form under *section 103(1)*<sup>2</sup> is, until the contrary is shown, sufficient evidence in any proceedings under this Chapter 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 designated medical practitioner concerned with the requirements imposed on him or her by or under this Chapter.

(3) A certificate expressed to have been issued under *section 104*<sup>3</sup> is, until the contrary is shown, sufficient evidence in any proceedings under this Part 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 Bureau with the requirements imposed on it by or under this Chapter.

(4) In a prosecution for an offence under *section 96*<sup>4</sup>, it shall be presumed, until the contrary is shown, that each of the following persons is a designated medical practitioner—

- (a) a person who by virtue of powers conferred on him or her by this Part took from another person a specimen of that other person’s blood or was provided by another person with a specimen of that other person’s urine,
- (b) a person for whom, following a requirement under *section 99(1)*<sup>5</sup> or *100(1)*<sup>6</sup> to permit the taking by him of a specimen of blood, there was a refusal or failure to give such permission or to comply with a requirement

of his or her in relation to the taking of such a specimen,

- (c) a person for whom, following a requirement under *section 99(1)*<sup>5</sup> or *100(1)*<sup>6</sup> to provide for him or her a specimen of urine, there was a refusal or failure to provide such a specimen or to comply with a requirement of his or her in relation to the provision of such a specimen.

(5) Where, pursuant to *section 99*<sup>5</sup> or *100*<sup>6</sup> a designated medical practitioner states in writing that he or she is unwilling, on medical grounds, to take from a person a specimen of his or her blood or be provided by him or her with a specimen of his or her urine, the statement signed by the medical practitioner is, in any proceedings under this Part, sufficient evidence, until the contrary is shown, of the facts stated therein, without proof of any signature on it or that the signatory was the proper person to sign it.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendment no. 135 is accepted.*]

[<sup>2</sup>*This is the appropriate reference if amendment no. 136 is accepted.*]

[<sup>3</sup>*This is the appropriate reference if amendment no. 137 is accepted.*]

[<sup>4</sup>*This is the appropriate reference if amendment no. 129 is accepted.*]

[<sup>5</sup>*These are the appropriate references if amendment no. 132 is accepted.*]

[<sup>6</sup>*These are the appropriate references if amendment no. 133 is accepted.*]

**140.** In page 71, before line 1, to insert the following:

“Defences.

107.—(1) In a prosecution of a safety critical worker for an offence under *section 99*<sup>1</sup> for refusing or failing to comply with a requirement to provide 2 specimens of his or her breath, it is a defence for the defendant to satisfy the court that there was a special and substantial reason for his or her refusal or failure and that, as soon as practicable after the refusal or failure concerned, he or she complied (or offered, but was not called upon, to comply) with a requirement under the section concerned in relation to the taking of a specimen of blood or the provision of a specimen of urine.

(2) In a prosecution of a safety critical worker for an offence under *section 99*<sup>1</sup> or *100*<sup>2</sup> for refusing or failing to comply with a requirement to permit a designated medical practitioner to take a specimen of blood or for refusing or failing to comply with a requirement of a designated medical practitioner in relation to the taking of a specimen of blood, it is a defence for the defendant to satisfy the court that there was a special and substantial reason for his or her refusal or failure and that, as soon as practicable after the refusal or failure concerned, he or she complied (or offered, but was not called upon, to comply) with a requirement under the section concerned in relation to the provision of a specimen of urine.

(3) Notwithstanding *subsections (1) and (2)*, evidence may be given at the hearing of a charge of an offence under *section 96*<sup>3</sup> that the defendant refused or failed to comply with a requirement to provide 2 specimens of his or her breath, or that the defendant refused or failed to comply with a requirement to permit the taking of a specimen of his or her blood or to comply with a requirement of a designated medical practitioner in relation to the taking of a specimen of blood, as the case may be.

(4) It is not a defence for a person charged with an offence under *section 96*<sup>3</sup> to show that, in relation to the facts alleged to constitute the offence, an analysis or determination under this Chapter, has not been carried out or that he or she has not been requested under *section 97*<sup>4</sup> to provide a specimen of his or her breath.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendment no. 132 is accepted.*]

[<sup>2</sup>*This is the appropriate reference if amendment no. 133 is accepted.*]

[<sup>3</sup>*These are the appropriate references if amendment no. 129 is accepted.*]

[<sup>4</sup>*This is the appropriate reference if amendment no. 130 is accepted.*]

**141.** In page 71, before line 1, to insert the following:

“Penalties.

108.—A person guilty of an offence under this Chapter (other than *section 102(4)*<sup>1</sup>) is liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 6 months, or to both.”.

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 135 is accepted.*]

**142.** In page 71, before line 1, to insert the following:

### “Chapter 3

Carelessly or dangerously working or working while unfit, on railway

Careless working on railway.

109.—(1) A safety critical worker shall not perform a safety critical task on railway property or in a public place without taking due care and attention.

(2) A person who contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500 or to imprisonment for a term not exceeding 3 months, or to both.”.

—An tAire Iompair.

**143.** In page 71, before line 1, to insert the following:

“Dangerous working on railway.

110.—(1) A safety critical worker shall not perform a safety critical task in a manner which, having regard to all the circumstances of the case, is dangerous to the safety of persons or poses an unreasonable risk of harm to persons.

(2) A person, being a supervisor, manager, director or secretary of

a railway undertaking, shall not instruct a safety critical worker to perform a safety critical task in a manner that may cause that worker to contravene *subsection (1)*.

(3) A person who contravenes *subsection (1)* or *(2)* is guilty of an offence and—

(a) in case the contravention causes loss of life or serious personal injury to another person, is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or to a fine not exceeding €10,000, or to both, or

(b) in any other case, is liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 6 months, or to both.

(4) In proceedings for an offence under *subsection (3)*, it shall be a defence for the person against whom such proceedings are brought to prove that the safety critical task—

(a) in respect of a contravention of *subsection (1)*, was performed, or

(b) in respect of a contravention of *subsection (2)*, was instructed to be performed,

in accordance with written rules or procedures of the railway undertaking concerned, where those rules or procedures specify the manner in which that task should be performed.

(5) Where a member of the Garda Síochána is of the opinion that a person has committed an offence under this section causing loss of life or serious personal injury to another person, the member may arrest the person without warrant.”.

—An tAire Iompair.

**144.** In page 71, before line 1, to insert the following:

“Medical fitness for duty.

111.—(1) A railway undertaking may require a safety critical worker to undergo an assessment by a medical practitioner, nominated by the undertaking, of his or her fitness to perform a safety critical task and such person shall co-operate with such medical assessment.

(2) Railway undertakings shall ensure that safety critical workers undergo assessment by a medical practitioner of their fitness to perform safety critical tasks.

(3) Where, following an assessment under *subsection (1)*, a medical practitioner is of the opinion that a safety critical worker is unfit to perform a safety critical task, he or she shall notify the railway undertaking concerned, by the quickest practicable means, of that opinion and shall inform the safety critical worker of that opinion and the reasons for that opinion.

(4) If a safety critical worker becomes aware that he or she is suffering from any disease or physical or mental impairment

which, should he or she perform a safety critical task, would be likely to cause him or her to expose a person to danger or risk of danger, he or she shall immediately notify the railway undertaking concerned.

(5) Where a railway undertaking receives a notification under *subsection (3) or (4)*, it shall not permit the safety critical worker concerned to perform a safety critical task until such time as an assessment under *subsection (1)* confirms that he or she is fit to so perform that task.

(6) The Commission may, with the consent of the Minister, and after consultation with railway undertakings, organisations which represent staff of railway undertakings, the Medical Council, the Health and Safety Authority and such other persons as in the opinion of the Commission may be relevant, make regulations in relation to all or any of the following—

(a) the nature of a medical assessment under *subsection (1)* and the matters that shall be assessed, or

(b) the frequency of an assessment under *subsection (2)*.

(7) The Commission may, after consultation with railway undertakings, organisations which represent staff of railway undertakings, the Medical Council, the Health and Safety Authority and such other persons as in the opinion of the Commission may be relevant, publish guidelines in relation to the types of disease or physical or mental impairment which may require notification by a safety critical worker to a railway undertaking under *subsection (4)*.

(8) On each occasion that a safety critical worker attends his or her medical practitioner, he or she shall inform that medical practitioner of his or her position as a safety critical worker.”

—An tAire Iompair.

**145.** In page 71, line 52, to delete “€100,000” and substitute “€500,000”.

—An tAire Iompair.

**146.** In page 73, line 26, to delete “*Parts 10 or 11*” and substitute “*Part 12*”

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 124 is accepted.*]

**147.** In page 73, between lines 30 and 31, to insert the following:

“(2) The Commission shall be entitled—

(a) to view and take copies of any record or other evidence gathered or obtained by the Investigation Unit during the course of its investigation of a railway incident under *section 57*, and

(b) subject to *section 57(17)*<sup>1</sup>, to submit as evidence in criminal or other proceedings any such record or other

evidence.

(3) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for any offence under this Act may be instituted at any time within 2 years after the date of the offence.”.

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 57 is accepted.*]

**148.** In page 74, line 31, to delete “2001” and substitute “2003”.

—Roisín Shortall.

**149.** In page 76, between lines 27 and 28, to insert the following:

“Matters relating to  
bye-laws, etc.

105.—The Transport Act 1950 is amended—

(a) in section 20(1), by inserting after paragraph (b) the following:

‘(bb) the provision of parking facilities for vehicles on land belonging to or occupied by the Board, including fees for failure to comply with bye-laws made under section 22 (1)(ee),’

(b) in section 22—

(i) by inserting after paragraph (e) of subsection (1) the following:

‘(ee) for matters relating to the use and parking of vehicles on land belonging to or occupied by the Board including—

(i) the regulation of traffic generally, including parking restrictions, direction of traffic and the maximum speed of traffic on such land,

(ii) the making of provision for the fixing of an immobilisation device to any vehicle which has been unlawfully parked in any place on such land, and

(iii) the regulation of small public service vehicles (within the meaning of section 3 of the Road Traffic Act 1961) at railways or the approaches thereto;’,

and

(ii) by substituting for subsection (4) (as amended by section 6 of the Transport Act 1987) the following:

‘(4) Where a person contravenes a provision of

bye-laws made under this section which is stated in the bye-laws to be a penal provision, he or she is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.

(4A) The liability of an offender to a penalty under subsection (4) of this section does not prejudice the recovery of any fare, tariff or fee payable by him or her to the Board for any damage caused by him or her to property of the Board.

(4B) An offence under subsection (4) of this section may be prosecuted by the Board.’,

and

(c) in section 59, by substituting for subsection (1) (as amended by section 7 of the Transport Act 1987) the following:

‘(1) A person who trespasses on any of the railways of or worked by the Board is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.’.

—An tAire Iompair.

**150.** In page 76, between lines 27 and 28, to insert the following:

“Powers of  
authorised officers.

106.—The following section is inserted after section 22 of the Transport Act 1950:

‘22A.—(1) If an authorised officer reasonably suspects that a person—

- (a) is contravening or has contravened or is failing or has failed to comply with a provision of bye-laws made under section 22 of this Act which is stated in the bye-laws to be a penal provision,
- (b) is committing or has committed an offence under section 59(1) of this Act, section 25 of the Transport (Miscellaneous Provisions) Act 1971, or *section 96 or 106<sup>1</sup> of the Railway Safety Act 2004*,
- (c) is assaulting or has assaulted or is causing or has caused deliberate harm to another on railway property,
- (d) is causing or has caused wanton or deliberate damage to railway property,
- (e) is obstructing or has obstructed or is

impeding or has impeded an authorised officer in the exercise of his or her duties under this section or any provision of bye-laws made under section 22 of this Act which is stated in the bye-laws to be a penal provision,

(f) on any railway property is intoxicated or is committing or has committed an offence under section 15 of the Misuse of Drugs Act 1977, or

(g) if requested by an authorised officer to cease such contravention or action or to so comply, fails to comply with the request,

he or she may—

(i) using such reasonable force as the circumstances require, remove or escort the person from the railway property or any part of it,

(ii) in circumstances where the officer considers it to be justified, arrest the person without warrant, or

(iii) require the person to give his or her name and address and, if the person fails or refuses to do so or gives a name that the authorised officer reasonably suspects is false or misleading may arrest that person without warrant,

and, if he or she is not a member of the Garda Síochána, deliver, as soon as practicable, the person, if arrested, into the custody of a member of the Garda Síochána to be dealt with according to law.

(2) A person who fails or refuses to give his or her name or address when required under subsection (1) of this section, or gives a name or address which is false or misleading, is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.

(3) The Board may appoint such and so many persons as it considers necessary to be authorised officers for the purposes of this section or any provision of bye-laws made under section 22 of this Act which is stated in the bye-laws to be a penal provision.

(4) An authorised officer, who is not a member of

the Garda Síochána, is not entitled to exercise a power under this section unless he or she has received training and instruction, which, in the opinion of the Board is such as will provide guidance to him or her in the exercise of the power.

(5) The Board shall endorse on the warrant it furnishes to an authorised officer under subsection (6) of this section a statement to the effect that the officer has received the training and instruction referred to in subsection (4) of this section.

(6) An authorised officer, who is not a member of the Garda Síochána, shall, on his or her appointment under this section, be furnished by the Board with a warrant of his or her appointment as an authorised officer.

(7) An authorised officer, who is not a member of the Garda Síochána, when exercising a power under this section shall be in uniform provided or authorised by the Board.

(8) The arrest of a person under this section does not prejudice the re-arrest of the person by a member of the Garda Síochána.

(9) An authorised officer, who is not a member of the Garda Síochána, may be referred to by the Board by such title as it decides.

(10) In this section—

“authorised officer” means a person appointed under this section or a member of the Garda Síochána whose attendance is requested by an authorised officer or by the Board;

“railway property” means all land, buildings, railway infrastructure (within the meaning of the *Railway Safety Act 2004*), rolling stock and vehicles within the control of the Board.

(11) In this section a reference to the committal of an offence or an act includes a reference to an attempt to commit the offence or the act.’.”.

—An tAire Iompair.

[<sup>1</sup>*This is the appropriate reference if amendment no. 151 is accepted.*]

**151.** In page 76, after line 36, to insert the following:

#### “PART 14<sup>1</sup>

##### MISCELLANEOUS

Penalty for avoiding payment of fare. 106.—(1) Every passenger of a railway undertaking shall, on request by an officer or employee of a railway undertaking,

produce, and if so requested, deliver up to the officer or employee a ticket showing that his or her fare is paid and, if the fare has not been paid, shall upon request—

(a) pay, to the officer or employee—

(i) his or her fare from the place where he or she started the journey by railway, or

(ii) such other fare for non-payment of a fare as fixed by the undertaking,

as the officer or employee decides, or

(b) give the officer or employee his or her name and address.

(2) A passenger who fails—

(a) to comply with a request under *subsection (1)* to deliver up a ticket,

(b) to pay the fare required under *subsection (1)(a)*, or

(c) to give his or her name and address, if requested under *subsection (1)(b)*,

is guilty of an offence.

(3) A passenger who—

(a) travels or attempts to travel on a railway of a railway undertaking without having previously paid his or her fare, and with intent to avoid such payment,

(b) having paid his or her fare for a certain distance, knowingly and wilfully proceeds by train beyond that distance without previously paying the additional fare for the additional distance, and with intent to avoid such payment, or

(c) having failed to pay his or her fare, gives in reply to a request by an officer or employee of a railway undertaking a false or misleading name or address,

is guilty of an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €1,000.

(5) The liability of an offender to a penalty under this section does not prejudice the recovery of any fare payable by him or her.”.

—An tAire Iompair.

[<sup>1</sup>*The proposed new Part comprehends the inclusion of amendment nos. 151 and 152 inclusive.*]

**152.** In page 76, after line 36, to insert the following:

107.—(1) Where an authorised officer has reasonable grounds for

“Fixed payment  
notice.

believing that a person is committing or has committed an offence under section 22(4), 22A(2) or 59(1) of the Transport Act 1950, section 25(1) of the Transport (Miscellaneous Provisions) Act 1971, or *section 96 or 106*<sup>1</sup>, he or she may serve the person with a notice ('fixed payment notice') in the prescribed form stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 21 days beginning on the date of the notice make to the railway undertaking concerned at the address specified in the notice a payment of €100, or in lieu of that amount such other amount standing specified for the time being in regulations, accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed payment notice is given under *subsection (1)*—

- (a) a person to whom the notice applies may, during the period specified in the notice, make to the railway undertaking concerned at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the railway undertaking concerned may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under this Act the onus of proving that a payment pursuant to a notice under this section has been made shall lie on the defendant.

(4) A railway undertaking may appoint such and so many persons as it considers necessary to be authorised officers for the purpose of *subsection (1)* generally or for specified purposes.

(5) In this section—

'authorised officer' includes in relation to an offence under section 22(4), 22A(2) or 59(1) of the Transport Act 1950, section 25(1) of the Transport (Miscellaneous Provisions) Act 1971 and *section 96 or 106*<sup>1</sup> and in relation to railway property belonging to or under the control of Corás Iompair Éireann, an authorised officer appointed under section 22(A) (inserted by *section 106*<sup>1</sup>) of

the Transport Act 1950;

‘prescribed’ means prescribed by regulations made by the Minister.”.

—An tAire Iompair.

[<sup>1</sup>*These are the appropriate references if amendment no. 151 is accepted.*]

**153.** In page 76, after line 36, to insert the following:

“PART 15<sup>1</sup>

LIGHT RAILWAY AND METRO

Amendment of  
Transport (Railway  
Infrastructure) Act  
2001.

108.—(1) The following sections are substituted for section 66 of the Transport (Railway Infrastructure) Act 2001:

‘Bye-laws. 66.—(1) Bye-laws may be made—

(a) by the Agency, in relation to a railway, or

(b) with the consent of the Agency, by a railway undertaking in relation to a railway it operates or under its control,

in relation to any one or more of the following matters—

(i) the general regulation, subject to any statutory provisions in that behalf, of—

(I) the travelling upon or use of a railway, (including a requirement to travel with a valid ticket or pass and the issue of such), or

(II) the working of railway transport services by a railway undertaking,

(ii) the prevention of the commission of nuisances in or upon a railway,

(iii) the prevention of damage to railway infrastructure,

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

- (v) the regulation of parking of vehicles on or adjacent to a railway,
- (vi) the safe custody and return or disposal of any property found on a railway,
- (vii) the repair, improvement, extension and development of a railway,
- (viii) subject to any statutory provisions in that behalf, the regulation of works that would affect the operation or maintenance of a railway or would otherwise interfere with the proper operation of a railway.

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

(3) The Agency, or, as the case may be, a railway undertaking may provide for reasonable charges in respect of matters provided for in bye-laws made by it under this section.

(4) Whenever, after the passing of the *Railway Safety Act 2004*, the Agency or a railway undertaking proposes to make bye-laws under this section, the following provisions have effect—

- (a) the Agency or the undertaking, as the case may be, shall publish notice of the proposal at least once in at least 2 daily newspapers published in and circulating in the State or the area to which the bye-laws relate,
- (b) the notice shall include—
  - (i) a statement of the purposes for which the bye-laws are to be made,
  - (ii) an intimation that a copy of draft bye-laws is open for public inspection at the principal offices in the State of the Agency or the undertaking, as the case may be,

(iii) an intimation that any person may submit to the Agency or the undertaking, as the case may be, objections to the draft bye-laws at any time during the period of 30 days commencing on the date of the first publication of the notice,

(c) the Agency or the undertaking, as the case may be, shall, during that period of 30 days, keep a copy of the draft bye-laws open for public inspection during ordinary office hours at its principal offices,

(d) any person who objects to the draft bye-laws may submit his or her objection to the Agency or the undertaking, as the case may be, in writing at any time during that period of 30 days and the Agency or the undertaking, as the case may be, shall consider the objections, and

(e) on the completion of that period of 30 days, the Agency or the undertaking, as the case may be, shall as it thinks proper, refrain from making the bye-laws or make the bye-laws either without modification or with modification as it thinks proper.

(5) Such details of bye-laws under this section shall be displayed on a railway, where practicable, in conspicuous places in such manner as—

(a) the Agency, where the bye-laws are made by it, or

(b) a railway undertaking, where the bye-laws are made by it, subject to any general direction of the Agency,

considers best adapted for giving information to the public. The absence of any such display is not a defence to a contravention of or failure to comply with such bye-laws.

(6) Bye-laws under this section shall not be made without the consent of the Minister.

(7) Every bye-law made under this section,

after the passing of the *Railway Safety Act 2004*, shall be laid, where they are made by the Agency, by the Agency and where they are made by a railway undertaking, by the railway undertaking, before each House of the Oireachtas, as soon as may be after it is made and, if a resolution annulling the bye-law is passed by either such House within the next 21 days on which that House has sat after the bye-law is laid before it, the bye-law shall be annulled accordingly, but without prejudice to anything previously done under it.

(8) A person who contravenes or fails to comply with a bye-law under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.

(9) The liability of an offender to a fine under subsection (8) does not prejudice the recovery of any fare, tariff or fee payable by him or her to the Agency or a railway undertaking for any damage caused by him or her to property of the Agency or a railway undertaking.

Immobilisation,  
removal, etc. of  
unlawfully parked  
vehicles.

66A.—(1) Where an authorised officer finds on a railway a vehicle—

- (a) parked in contravention of bye-laws made under section 66,
- (b) which is or may become a danger to life, health, the operation or maintenance of a railway, or
- (c) would otherwise interfere with the proper operation of a railway,

he or she or a person acting under his or her direction may—

- (i) fix an immobilisation device to the vehicle while it remains in the place where he or she finds it, or
- (ii) move it from the place where he or she finds it (whether or not he or she has fixed an immobilisation device to it) to another place and fix an immobilisation device to it in that other place.

(2) When fixing an immobilisation device to a vehicle, there shall also be affixed to the vehicle a notice in the prescribed form—

- (a) indicating that the device has been fixed to the vehicle and warning

that an attempt should not be made to drive it or otherwise put it in motion until the device is removed,

(b) specifying the steps to be taken to secure such removal, and

(c) giving such other information (if any) as may be prescribed.

(3) Subject to subsection (4), an immobilisation device that has been fixed to a vehicle under this section may be removed only by an authorised person or a person acting under his or her direction.

(4)(a) An immobilisation device fixed to a vehicle under this section shall be removed only—

(i) if the person seeking its removal shows to the satisfaction of an authorised person that he or she, is the owner of the vehicle or is authorised by its owner to seek such removal and pays the prescribed charge,

(ii) for the purpose of the removal of the vehicle under section 97 of the Act of 1961, or

(iii) for the purpose of moving the vehicle under subsection (1).

(b) Where the owner of a vehicle that is parked and to which an immobilisation device has been fixed under this section shows to the satisfaction of any authorised officer that the vehicle was so parked while being used by a person other than the owner and that such use was not authorised by the owner, the authorised officer shall waive the prescribed charge and he or she or a person acting under his or her direction shall remove the immobilisation device from the vehicle.

(c) An immobilisation device fixed to a vehicle under this section shall be removed from it as soon as is

reasonably practicable after the payment of the prescribed charge or after the waiver of such charge, as the case may be.

(5) A notice affixed to a vehicle under this section shall not be removed or interfered with by a person other than the owner of the vehicle or a person authorised by such owner to use the vehicle and a person who contravenes this subsection is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.

(6) A person who—

(a) obstructs or impedes an authorised officer, or a person acting under his or her direction, in the performance of his or her duties under this section, or

(b) without being authorised to do so under this section, removes or attempts to remove from a vehicle an immobilisation device fixed to it under this section,

is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.

(7) An immobilisation device shall not be fixed under this section to an ambulance, a fire brigade vehicle or any vehicle used by a member of the Garda Síochána or the Defence Forces in the performance of his or her duties as such member.

(8) In this section—

“immobilisation device” means any device or appliance designed or adapted for fixing to a vehicle for the purpose of preventing it from being driven or otherwise put in motion;

“prescribed” means prescribed in regulations made by the Minister;

“vehicle” has the same meaning as in the Act of 1961.

Powers of  
authorised officers.

66B.—(1) If an authorised officer reasonably suspects that a person—

(a) is contravening or has contravened or is failing or has failed to comply with a bye-law made under section 66,

- (b) is committing or has committed on a railway an offence under section 64 or 65,
- (c) is assaulting or has assaulted or is causing or has caused deliberate harm to another on a railway,
- (d) is causing or has caused wanton or deliberate damage to railway infrastructure,
- (e) has contravened *section 96 or 106<sup>2</sup> of the Railway Safety Act 2004*,
- (f) is obstructing or has obstructed or is impeding or has impeded an authorised officer in the exercise of his or her duties under this section, section 66A, 66C, or under any bye-law made under section 66,
- (g) on any railway is intoxicated or is committing or has committed an offence under section 15 of the Misuse of Drugs Act 1977, or
- (h) if requested by an authorised officer to cease such contravention or action or to so comply, fails to comply with the request,

he or she may—

- (i) using such reasonable force as the circumstances require, remove or escort the person from the railway or any part of it,
- (ii) in circumstances where the authorised officer considers it to be justified, arrest the person without warrant, or
- (iii) require the person to give his or her name and address and, if the person fails or refuses to do so or gives a name that the authorised officer reasonably suspects is false or misleading, arrest that person without warrant,

and, if he or she is not a member of the Garda Síochána, deliver, as soon as practicable, the person, if arrested, into the custody of a member of the Garda Síochána to be dealt with according to

law.

(2) A person who fails or refuses to give his or her name or address when required under subsection (1), or gives a name or address which is false or misleading, is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.

(3) The Agency, or a railway undertaking with the consent of the Agency, may appoint such and so many persons as it considers necessary to be authorised officers for the purposes of this section, section 66A, 66C or any bye-law made under section 66.

(4) An authorised officer, who is not a member of the Garda Síochána, is not entitled to exercise a power under this section unless he or she has received training and instruction, which, in the opinion of the Agency is such as will provide guidance to him or her in the exercise of the power.

(5) The Agency or a railway undertaking, as the case may be, shall endorse on the warrant it furnishes to an authorised officer under subsection (6) a statement to the effect that the officer has received the training and instruction referred to in subsection (4).

(6) An authorised officer, who is not a member of the Garda Síochána, shall, on his or her appointment under this section, be furnished by the Agency or a railway undertaking, as the case may be, with a warrant of his or her appointment as an authorised officer.

(7) An authorised officer, who is not a member of the Garda Síochána, when exercising a power under this section shall be in uniform provided or authorised—

(a) where he or she is appointed by the Agency, by the Agency, or

(b) where he or she is appointed by a railway undertaking, by the railway undertaking.

(8) The arrest of a person under this section does not prejudice the re-arrest of the person by a member of the Garda Síochána.

(9) An authorised officer, who is not a member of the Garda Síochána, may be referred to—

(a) where he or she is appointed by the Agency, by the Agency, or

(b) where he or she is appointed by a railway undertaking, by the railway undertaking,

by such title as it decides.

(10) In this section a reference to the committal of an offence or an act includes a reference to an attempt to commit the offence or the act.

(11) In this section “authorised officer” means a person appointed under this section or a member of the Garda Síochána whose attendance is requested by an authorised officer or by the Agency or a railway undertaking.

Fixed payment  
notice.

66C.—(1) Where—

(a) an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence under section 64(1), 66(8) (for a contravention or failure to comply with a bye-law made under that section), 66A(5) or (6), or 66B (2) or *section 96 or 106<sup>2</sup> of the Railway Safety Act 2004*, or

(b) a member of the Garda Síochána has reasonable grounds for believing that a person is committing or has committed an offence under section 54(5),

he or she may serve the person with a notice (“fixed payment notice”) in the prescribed form stating that—

(i) the person is alleged to have committed the offence,

(ii) the person may during the period of 21 days beginning on the date of the notice make to the Agency or the railway undertaking concerned, as the case may be, at the address specified in the notice a payment of €100, or in lieu of that amount such other amount standing prescribed for the time being, accompanied by the notice, and

(iii) a prosecution in respect of the alleged offence will not be instituted

during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed payment notice is given under subsection (1)—

(a) a person to whom the notice applies may, during the period specified in the notice, make to the Agency or the railway undertaking concerned, as the case may be, at the address specified in the notice the payment specified in it and accompanied by the notice,

(b) the Agency or the railway undertaking concerned may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under this Act the onus of proving that a payment pursuant to a notice under this section has been made lies on the defendant.

(4) In this section ‘prescribed’ means prescribed in regulations made by the Minister.’.

(2) Any bye-law made under section 66 of the Transport (Railway Infrastructure) Act 2001, which is in force immediately before the passing of this Act, continues in force as if made under section 66, inserted by *subsection (1)*.”.

—An tAire Iompair.

[<sup>1</sup>The proposed new Part comprehends the inclusion of amendment nos. 153 and 154.]

[<sup>2</sup>These are the appropriate references if amendment no. 151 is accepted.]

**154.** In page 76, after line 36, to insert the following:

“Increase of fines.

109.— Parts 4 and 5 of the Transport (Railway Infrastructure) Act 2001 are amended by substituting in—

- (a) section 54(6), “€1,000” for “€600 (£472.54)”,
- (b) section 56(2), “€3,000” for “€2,500 (£1968.91)”,
- (c) section 59(3), “€1,000” for “€600 (£472.54)”,
- (d) section 60(4), “€3,000” for “€2,000 (£1575.13)”,
- (e) section 63(3), “€3,000” for “€2,000 (£1575.13)”,
- (f) section 64(1), “€1,000” for “€600 (£472.54)”,
- (g) section 65, “€3,000” for “€2,000 (£1575.13)”, and
- (h) section 67(2), “€1,000” for “€600 (£472.54)”.’.

—An tAire Iompair.

**155.** In page 77, between lines 21 and 22, to insert the following:

“

52 & 53 Vict. c. 57	Regulation of Railways Act 1889	Sections 5 and 6
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”.

—An tAire Iompair.

**156.** In page 77, between lines 26 and 27, to insert the following:

“

No. 19 of 1958	Transport Act 1958	Section 9
No. 14 of 1971	Transport (Miscellaneous Provisions) Act 1971	Sections 22 and 29

”.

—An tAire Iompair.

**157.** In page 77, line 27, column 3, after “Section” to insert “10 and”.

—An tAire Iompair.

**158.** In page 77, line 28, column 3, to delete “and 51” and substitute “, 51 and 57”.

—An tAire Iompair .

**159.** In page 78, to delete lines 20 to 22.

—An tAire Iompair .