

SEANAD ÉIREANN

AN BILLE UM SHÁBHÁILTEACHT IARNRÓID 2001 — AN COISTE RAILWAY SAFETY BILL 2001 — COMMITTEE

Leasuithe Amendments

**Government amendments are distinguished by an asterisk.*

SECTION 3

- *1. In page 12, lines 11 and 12, to delete “or 84” and substitute “, 84 or 92”.

SECTION 4

- *2. In page 12, between lines 26 and 27, to insert the following new subsection:

“(4) This Act does not apply to fairground equipment which has been granted a valid certificate of safety in accordance with section 239 of the Planning and Development Act 2000, unless, in the opinion of the Commission, it is appropriate to apply it in the interest of the safety of persons.”.

SECTION 8

- *3. In page 13, subsection (1), to delete lines 6 and 7 and substitute the following:

“body to be known as, in the Irish language, An Coimisiún Sábháilteachta Iarnróid, or in the English language, the Railway Safety Commission, in this Act referred”.

SECTION 10

- *4. In page 13, subsection (3), lines 29 to 42, to delete paragraphs (a), (b) and (c) and substitute the following:

“(a) enter into agreements or make arrangements with any Minister of the Government, or any other person for that Minister or person to perform on behalf of the Commission (with or without payment) any of its functions; and

(b) enter into agreements or make arrangements with any Minister of the Government or the Health and Safety Authority for the Commission to perform on behalf of that Minister or that Authority (with or without payment) such functions as may appropriately be performed by it in connection with its functions under this Act.

SECTION 10—*continued*

(4) The Commission shall have all such powers as are necessary or expedient for the performance of its functions under *subsection (3)(b)*.”.

SECTION 14

- *5. In page 16, subsection (9), line 31, to delete “Civil Service and Local Appointments Commissioners” and substitute “Public Appointments Service”.

SECTION 31

6. In page 26, between lines 14 and 15, to insert the following new subsection:

“(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.”.

— *Senator Paddy Burke.*

SECTION 43

- *7. In page 33, subsection (5), line 43, to delete “7” and substitute “21”.

SECTION 51

- *8. In page 43, line 39, to delete “accident” and substitute “occurrence”.
- *9. In page 44, paragraph (d), line 3, to delete “accident” and substitute “occurrence”.
- *10. In page 44, paragraph (d), line 7, to delete “are” and substitute “is”.
- *11. In page 44, paragraph (d), lines 7 and 8, to delete “the Commission or”.
- *12. In page 44, line 9, to delete “accident” and substitute “occurrence”.

SECTION 52

- *13. In page 44, subsection (1), lines 15 and 16, to delete “Commission” and substitute “Investigation Unit”.
- *14. In page 44, subsection (1), line 16, to delete “Commission” and substitute “Investigation Unit”.
- *15. In page 44, subsection (1), lines 21 and 22, to delete “Commission” and substitute “Investigation Unit”.
- *16. In page 44, subsection (1), line 23, to delete “Commission” and substitute “Investigation Unit”.
- *17. In page 44, subsection (2), line 28, to delete “Commission” and substitute “Investigation Unit”.

SECTION 52—*continued*

- *18.** In page 44, subsection (2), line 31, to delete “Commission” and substitute “Investigation Unit”.

SECTION 53

- 19.** In page 44, between lines 46 and 47, to insert the following new subsection:

“(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.”.

— *Senator Paddy Burke.*

SECTION 56

- *20.** In page 48, subsection (2), lines 2 and 3, to delete “Civil Service and Local Appointments Commissioners” and substitute “Public Appointments Service”.

- *21.** In page 48, between lines 23 and 24, to insert the following new subsections:

“(7) Notwithstanding *subsection (2)*, where the Chief Investigator is unavailable or unable to perform his or her functions, or where the position of Chief Investigator is vacant, the Minister may engage a person (‘temporary chief investigator’) who, in his or her opinion, is suitably qualified to perform the functions of Chief Investigator to perform those functions during such unavailability, inability or vacancy.

(8) A temporary chief investigator shall be appointed as an inspector by the Commission and shall have all the powers of Chief Investigator under this Part.

(9) The cost of engaging a temporary chief investigator shall form part of the expenses of the Commission.”.

SECTION 58

- *22.** In page 49, lines 22 to 27, to delete subsection (6) and substitute the following new subsections:

“(6) Where an investigation under this section relates to an international service, the Investigation Unit shall notify the relevant competent authority in the other state and shall invite that competent authority to nominate a person to participate in the investigation and share the results.

(7) Where an investigation under this section relates to an international service and the railway incident concerned took place on or close to the border with another state, the Investigation Unit shall agree with the competent authority in the other state for either it or the other competent authority to investigate the incident, or to carry out a joint investigation.”.

SECTION 58—*continued*

- *23. In page 49, subsection (9), line 35, to delete “or (7)”.

SECTION 69

24. In page 55, between lines 38 and 39, to insert the following new paragraphs:

“(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.”.

— *Senator Paddy Burke.*

25. In page 56, between lines 12 and 13, to insert the following new paragraph:

“(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.”.

— *Senator Paddy Burke.*

- *26. In page 56, between lines 20 and 21, to insert the following new subsections:

“(2) Regulations made by the Commission under *subsection (1)* shall not be for the purpose of giving effect to an act adopted by an institution of the European Communities.

(3) The Minister may make regulations for the purpose of giving effect to an act adopted by an institution of the European Communities in relation to railway safety.

(4) Regulations under *subsection (3)* may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations (including provisions repealing, amending or applying, with or without modification, other law, exclusive of this Act).”.

SECTION 73

- *27. In page 57, between lines 31 and 32, to insert the following new subsection:

SECTION 73—*continued*

“(2) Each commissioner shall, on his or her appointment, be deemed to be an inspector for the purposes of this Act.”.

SECTION 77

- 28.** In page 63, between lines 33 and 34, to insert the following new subsection:

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

— *Senator Paddy Burke.*

SECTION 82

- *29.** In page 66, subsection (1), to delete lines 46 and 47 and substitute the following:

“to be known as, in the Irish language, An Chomhairle Sábháil-teachta Iarnróid, or in the English language, the Railway Safety Advisory Council, and in this Act”.

SECTION 102

- *30.** In page 82, line 25, to delete “Act” and substitute “section”.

SECTION 107

- *31.** In page 84, subsection (4)(b), line 45, after “him” to insert “or her”.

SECTION 111

- *32.** In page 86, lines 13 to 21, to delete subsection (3) and substitute the following:

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

(a) on conviction on indictment to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 5 years, or to both, or

(b) on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months, or to both.”.

- *33.** In page 86, between lines 31 and 32, to insert the following new subsection:

“(5) Where, when a person is tried on indictment or summarily for an offence under this section, the jury, or, in the case of a summary trial the District Court, is of the opinion that he or she was not guilty of an offence under this section but was guilty of an offence under *section 110*, the jury or court may find him

SECTION 111—*continued*

or her guilty of an offence under *section 110* and he or she may be sentenced accordingly.”.

SECTION 114

*34. In page 89, line 9, to delete “€3,000” and substitute “€5,000”.

SECTION 115

*35. In page 89, lines 14 to 21, to delete subsection (2).

SECTION 116

*36. In page 89, before section 116, to insert the following new section:

“Obligation to
notify danger
caused to
railway.

116.—(1) A person who causes a hazard or risk to persons by accidentally or negligently causing any structure, vehicle, or other matter or thing to come to lie on railway infrastructure, or to overhang or protrude into the operational area above or adjacent to railway infrastructure, shall immediately notify the railway undertaking concerned or a member of the Garda Síochána.

(2) A person who, without reasonable excuse, contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 3 months, or to both.”.

*37. In page 89, lines 24 to 31, to delete subsection (2).

SECTION 118

*38. In page 90, lines 5 to 12, to delete subsection (2).

SECTION 119

*39. In page 90, before section 119, to insert the following new section:

“Penalty.

119.—A person guilty of an offence under *section 115, 116 or 118* is liable—

(a) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 3 years or to both,

(b) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months, or to both.”.

*40. In page 90, line 19, to delete “*Part 12*” and substitute “this Part”.

SECTION 123

*41. In page 91, subsection (1), lines 26 to 35, to delete paragraph (e) and substitute the following new paragraph:

“(e) in any case where the Commission considers that the immediate giving of the notice, notification or direction is required, by sending it, by means of a facsimile machine or electronic mail, to a device or

SECTION 123—*continued*

facility for the reception of facsimiles or electronic mail located at the address at which the person ordinarily resides or carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the sender's—

- (i) facsimile machine generates a message confirming successful transmission of the total number of pages of the notice, or
- (ii) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail.”.

SECTION 124

- *42.** In page 91, subsection (1), line 41, after “The” to insert “Investigation Unit, the”.

SECTION 128

- *43.** In page 96, before section 128, to insert the following new section:

“Borrowing by CIE for capital purposes.

128.—(1) This section comes into operation on such day or days as the Minister may by order or orders appoint and different days may be so appointed for the coming into operation of different subsections.

(2) The Transport Act 1964 is amended by substituting for section 5(2) (inserted by section 3 of the Transport Act 1985) the following:

‘(2) The aggregate at any one time of borrowings under this section which have not been repaid shall not exceed €600,000,000.’.

(3) The State Guarantees (Transport) Act 1962 is amended by substituting for section 2(2) (inserted by section 4 of the Transport Act 1985) the following:

‘(2) The Minister shall not so exercise the powers conferred by subsection (1) of this section or by section 4(1) of the Transport Act 1974, that the amount, or the aggregate amount, of principal which he or she may at any one time be liable to pay pursuant to a guarantee or guarantees under this section or section 4 of the Transport Act 1974 (or under both those sections), and for the time being in force, together with the amount of principal (if any) which he or she has previously paid pursuant to any such guarantees and which has not been repaid, exceeds €600,000,000.’.”.

- 44.** In page 96, before section 128, to insert the following new section:

“Automation of level crossings.

128.—(1) It shall be the duty of Córas Iompair Éireann to automate all level crossings nationwide.

SECTION 128—*continued*

(2) It shall be the duty of Córas Iompair Éireann to ensure that automation of all level crossings on a national scale—

(i) is performed in an expeditious manner; and

(ii) is completed within a five-year period from the coming into force of this section.

(3) A schedule of all level crossings, including details of automation and the dates on which automation occurred, shall be presented to the Minister on a quarterly basis.

(4) A schedule of all level crossings, specifying the dates on which each manual level crossing is due to be automated, shall be presented to the Minister on an annual basis.”.

— *Senator Paddy Burke.*

***45.** In page 96, line 25, to delete “inserted” and substitute “as amended”.

NEW SECTION

***46.** In page 107, after line 14, but in Part 16, to insert the following new section:

“Amendment of
timeframe for
submissions on
railway order.

133.—Section 40 of the Transport (Railway Infrastructure) Act 2001 is amended by substituting for paragraph (iv) of subsection (1)(b) the following:

‘(iv) stating that the Minister will consider any submissions in relation to the proposed order or in relation to the likely effects on the environment of the proposed railway works which are submitted in writing to him or her by any person not later than 30 days after the end of the period specified in the noticed referred to in subparagraph (ii), and’.”.

NEW SECTION

***47.** In page 107, after line 14, to insert the following new section:

“PART 17#

ROAD TRAFFIC — BRIDGE STRIKES

“Collective
citation and
construction
(Part 17).

133.—The Road Traffic Acts 1961 to 2004 and this Part may be cited together as the Road Traffic Acts 1961 to 2005 and shall be construed together as one.”.

#[*The proposed new Part comprehends the inclusion of amendments Nos. 47, 48 and 52.*]

NEW SECTION

***48.** In page 107, after line 14, to insert the following new section:

“Bridge strikes.

134.—(1) In this section ‘structure’ means—

NEW SECTION—*continued*

(a) any bridge, viaduct, subway, tunnel, underpass, overpass, or flyover, and

(b) in relation to a railway any overbridge or underbridge,

in a public place.

(2) Where the height of a structure in a public place is indicated by means of a traffic sign, specified in regulations made under section 95(2) of the Road Traffic Act 1961, provided in accordance with those regulations on or in the vicinity of the structure, a person shall not drive or attempt to drive a mechanically propelled vehicle under the structure, where the height of the vehicle, including its load, if any, measured from the ground to its highest point is equal to or exceeds the height indicated in the traffic sign, so as to strike the structure.

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

(a) on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 3 years, or to both, or

(b) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months, or to both.

(4) Where a person driving a mechanically propelled vehicle referred to in *subsection (2)* strikes a structure where a traffic sign referred to in that subsection is provided and, whether or not any damage to the structure is apparent, where the person who owns or is in charge of or has use of the structure has provided in a conspicuous place a notice containing a telephone number to contact in the event of such a strike, he or she shall make such contact immediately after the occurrence of the strike. If the person is unable to make such contact immediately, he or she shall immediately notify a member of the Garda Síochána of the occurrence.

(5) A person who, without reasonable excuse, fails to comply with *subsection (4)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.”.

SCHEDULE 1

*49. In page 108, column 3, line 33, after “51” to insert “, 55”.

SCHEDULE 2

*50. In page 109, after line 19, to insert the following:

No. 14 of 1993	Roads Act 1993	Section 15A(a)
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LONG TITLE

***51.** In page 9, to delete lines 6 to 13, and substitute the following:

“OF A BODY TO BE KNOWN AS, IN THE IRISH LANGUAGE, AN COIMISIÚN SÁBHÁILTEACHTA IARNRÓID, OR IN THE ENGLISH LANGUAGE, THE RAILWAY SAFETY COMMISSION, TO DEFINE ITS FUNCTIONS, TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS, IN THE IRISH LANGUAGE, AN CHOMHAIRLE SÁBHÁILTEACHTA IARNRÓID, OR IN THE ENGLISH LANGUAGE, THE RAILWAY SAFETY ADVISORY COUNCIL, TO DEFINE ITS FUNCTIONS, TO”.

***52.** In page 9, line 36, after “RAILWAYS,” to insert “TO AMEND THE ROAD TRAFFIC ACTS 1961 TO 2004,”.