



Bille na mBóithre, 2014
Roads Bill 2014

Mar a tionscnaíodh

As initiated



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ROADS BILL 2014

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Financial Emergency Measures in the Public Interest Act 2010 (No. 38)
Local Government Act 2001 (No. 37)
Minimum Notice and Terms of Employment Acts 1973 to 2005
Ministers and Secretaries (Amendment) Act 2011 (No. 10)
National Treasury Management Agency (Amendment) Act 2000 (No. 39)
Ombudsman (Amendment) Act 2012 (No. 38)
Organisation of Working Time Act 1997 (No. 20)
Parental Leave Acts 1998 and 2006
Protection of Employees (Part-Time Work) Act 2001 (No. 45)
Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37)
Public Service Superannuation (Miscellaneous Provisions) Act 2004 (No. 7)
Redundancy Payments Acts 1967 to 2012
Roads Act 1993 (No. 14)
Roads Act 2007 (No. 34)
Statutory Instruments Act 1947 (No. 44)
Transport (Railway Infrastructure) Act 2001 (No. 55)
Unfair Dismissals Acts 1977 to 2007



BILLE NA mBÓITHRE, 2014
ROADS BILL 2014

Bill

entitled

An Act to provide for the dissolution of the Railway Procurement Agency and the transfer of its functions and staff to the National Roads Authority; to amend the Roads Act 1993 and the Transport (Railway Infrastructure) Act 2001; to provide for additional functions to be assigned to the National Roads Authority; and to provide for related matters.

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Be it enacted by the Oireachtas as follows:

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PART 1

PRELIMINARY AND GENERAL

Short title and collective citation

1. (1) This Act may be cited as the Roads Act 2014.

(2) The Roads Acts 1993 to 2007 and this Act may be cited together as the Roads Acts 1993 to 2014 and shall be read together as one.

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Definitions

2. In this Act—

“Act of 1993” means Roads Act 1993;

“Act of 2001” means Transport (Railway Infrastructure) Act 2001;

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“Authority” means National Roads Authority;

“chief executive” means a person—

(a) directed under section 28(1)(b) of the Act of 1993 to perform the functions referred to in section 29(2) of that Act, or

(b) appointed under section 29 of the Act of 1993;

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“company” means a company within the meaning of the Companies Act 1963;

“dissolution day” means the day appointed by the Minister under *section 5* for the dissolution of the Railway Procurement Agency;

“dissolved body” means the Railway Procurement Agency as it stands dissolved by virtue of this Act;

“local authority” has the meaning assigned to it by the Local Government Act 2001;

“local road” and “regional road” have the meanings assigned to them, respectively, in section 2 of the Act of 1993;

“Minister” means the Minister for Transport, Tourism and Sport.

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Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

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Saver

4. (1) Any instrument (whether described as a rule, regulation, order, bye-law or code of practice or in any other way, and whether or not a statutory instrument to which the Statutory Instruments Act 1947 primarily applies) made or issued by, or on behalf of, the dissolved body and in force immediately before the dissolution day has, on and after that day, the same force and effect as it had immediately before that day.
- (2) An instrument referred to in *subsection (1)* may be revoked or amended by the Authority as if made by the Authority.

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PART 2

DISSOLUTION OF RAILWAY PROCUREMENT AGENCY

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CHAPTER 1

Dissolution and transfer of functions

Dissolution of Railway Procurement Agency

5. (1) The Minister shall, by order, appoint a day to be the dissolution day for the purposes of this Act.
- (2) The Railway Procurement Agency shall stand dissolved on and from the dissolution day.

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Transfer of functions of dissolved body to Authority

6. (1) On the dissolution day, all functions that, immediately before the dissolution day, were vested in the dissolved body are transferred to the Authority.
- (2) References to the dissolved body in any enactment (other than this Act or an enactment mentioned in the Schedule) or any instrument made under such an enactment, in so far as they relate to a function transferred by *subsection (1)*, shall be construed as references to the Authority.

30

Transfer of land and other property

7. (1) On the dissolution day, all lands that, immediately before that day, were vested in the dissolved body and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the Authority for all the estate or interest therein that, immediately before the dissolution day, was vested in the dissolved body, but subject to all trusts and equities affecting the lands continuing to subsist and capable of being performed. 5
- (2) On the dissolution day, all property (other than land), including choses-in-action, that, immediately before that day, was vested in the dissolved body shall stand vested in the Authority without any assignment. 10
- (3) Every chose-in-action vested in the Authority by virtue of *subsection (2)* may, on and from the dissolution day, be sued on, recovered or enforced by the Authority in its own name and it shall not be necessary for the Authority, or the dissolved body, to give notice to any person bound by any such chose-in-action of the vesting by this section. 15

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved body

8. (1) All rights and liabilities of the dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by it before the dissolution day shall on that day stand transferred to the Authority. 20
- (2) Every right and liability transferred by *subsection (1)* to the Authority may, on and after the dissolution day, be sued on, recovered or enforced by or against the Authority in its own name, and it shall not be necessary for the Authority, or the dissolved body, to give notice to the person whose right or liability is transferred by that subsection of such transfer. 25
- (3) Every lease, licence, wayleave or permission granted by the dissolved body in relation to land or other property vested in the Authority by or under this Act, and in force immediately before the dissolution day, shall continue in force as if granted by the Authority.

Liability for loss occurring before dissolution day 30

9. (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the dissolution day of any of the functions of the dissolved body transferred to the Authority by this Act shall on and after that day, lie against the Authority and not against the dissolved body.
- (2) Any legal proceedings pending immediately before the dissolution day to which the dissolved body is a party, that relate to a function of that dissolved body transferred by this Act, shall be continued, with the substitution in the proceedings of the Authority, in so far as they so relate, for that dissolved body and the proceedings shall not abate by reason of such substitution. 35
- (3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates and the terms of the agreement have not been implemented, or judgment in such a claim has been given in 40

favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the dissolved body, be enforceable against the Authority and not the dissolved body.

- (4) Any claim made or proper to be made by the dissolved body in respect of any loss or injury arising from the act or default of any person before the dissolution day shall, where the claim relates to functions transferred to the Authority by *section 6*, on and after that day be regarded as having been made by or proper to be made by the Authority and may be pursued and sued for by the Authority as if the loss or injury had been suffered by the Authority. 5

Provisions consequent upon transfer of functions, assets and liabilities to Authority 10

10. (1) Anything commenced and not completed before the dissolution day by or under the authority of the dissolved body may, in so far as it relates to a function transferred to the Authority under *section 6*, be carried on or completed on or after that day by the Authority.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *section 6* shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made by the Authority. 15
- (3) References to the dissolved body in the memorandum of association or articles of association of any company relating to a function transferred by *section 6* shall, on and after the dissolution day, be construed as references to the Authority. 20
- (4) All moneys, stocks, shares and securities transferred by *section 7* that, immediately before the dissolution day, were standing in the name of the dissolved body shall, on the request of the Authority, be transferred into its own name.
- (5) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the Authority under *section 7* or *8* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes. 25

Final accounts

11. (1) The Authority shall, in respect of the period specified in *subsection (3)(a)*, prepare final accounts of the dissolved body. 30
- (2) Notwithstanding the making of an order under *section 5(1)* by the Minister, section 19 of the Act of 2001 continues in force and has effect, with the necessary modifications, in relation to and for the purpose of accounts drawn up under *subsection (1)*.
- (3) The accounts drawn up under *subsection (1)* shall—
- (a) cover the period up to and including the dissolution day, 35
- (b) unless otherwise specified by the Minister, be finalised not later than 6 months after the dissolution day, and
- (c) along with the auditor's report thereon, be presented to the Minister not later than 30 days after the period mentioned in *paragraph (b)* and the Minister shall cause a copy of these documents to be laid before each House of the Oireachtas. 40

Operational name of Authority

12. On and after the dissolution day, the Authority may, for operational purposes, be referred to as the Transport Infrastructure Service.

CHAPTER 2

Transfer of staff and superannuation

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Transfer of staff of dissolved body

13. (1) The Authority shall, on the dissolution day, accept into its employment each person who immediately before that day was a member of staff of the dissolved body.
- (2) Save in accordance with any collective agreement negotiated with a recognised trade union or staff association, the acceptance of a person into the Authority's employment under *subsection (1)* shall be on such terms and conditions of service relating to remuneration as are not less favourable to him or her than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day. 10
- (3) In relation to persons transferred to the staff of the Authority under *subsection (1)*, previous service with the dissolved body shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following enactments: 15
- (a) the Redundancy Payments Acts 1967 to 2012;
 - (b) the Protection of Employees (Part-Time Work) Act 2001;
 - (c) the Minimum Notice and Terms of Employment Acts 1973 to 2005; 20
 - (d) the Unfair Dismissals Acts 1977 to 2007;
 - (e) the Organisation of Working Time Act 1997;
 - (f) the Parental Leave Acts 1998 and 2006.

Superannuation

14. (1) Save in accordance with any collective agreement negotiated with a recognised trade union or staff association, and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, a person who was accepted into the employment of the Authority in accordance with *section 13* who, immediately before the dissolution day, was a member of a staff superannuation scheme shall, on and after the dissolution day, continue to be a member of such scheme in accordance with its terms and conditions in force from time to time. 25 30
- (2) A person referred to in *subsection (1)* shall not, on the dissolution day, become a Scheme member within the meaning of section 10 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

CHAPTER 3

Repeal

Repeal of Part 2 of Act of 2001

15. Part 2 of the Transport (Railway Infrastructure) Act 2001 is repealed on the dissolution day. 5

PART 3

MATTERS RELATING TO FUNCTIONS OF NATIONAL ROADS AUTHORITY

CHAPTER 1

Additional functions of Authority

Conferral of additional functions on Authority

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16. (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, confer on the Authority, by order, such additional functions connected with the functions (including the functions transferred to the Authority under *section 6*) for the time being of the Authority as he or she thinks fit, subject to such conditions (if any) as may be specified in the order. 15

- (2) An order under this section may contain such incidental, supplemental and consequential provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.

Procurement function of Authority

17. (1) The Minister may, where he or she considers that it would be convenient, expeditious, effective or economical for the Authority to arrange, on behalf of, or for the benefit of, road authorities for the procurement of goods or services in relation to regional and local roads, request the Authority to arrange for such procurement, subject to such conditions as he or she thinks fit. 20

- (2) The Authority shall comply with a request made under *subsection (1)* and may enter into such contracts and do such things as arise out of, are consequential on or are necessary for the procurement, the subject of the request. 25

Advice and services

18. (1) The Authority shall, on receipt of a request from the Minister, provide—

(a) advice, or

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(b) services (including services of staff),

to the Minister on such terms and conditions (including terms and conditions relating to the payment for such advice or services) as may be agreed and the Minister may avail of such advice or services.

- (2) The Authority may provide services (including services of staff) to a local authority, or other persons, on such terms and conditions (including terms and conditions relating to the payment for such services) as may be agreed.
- (3) The Authority may fix, require, take and recover such charges as it thinks fit for services provided by or on behalf of it.

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CHAPTER 2

Accountability of chief executive

Accountability of chief executive to Public Accounts Committee

19. (1) The chief executive shall, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred to as the “Committee”), give evidence to that Committee on—
 - (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the Authority is required by the Act of 1993 to prepare,
 - (b) the economy and efficiency of the Authority in the use of its resources,
 - (c) the systems, procedures and practices employed by the Authority for the purpose of evaluating the effectiveness of its operations, and
 - (d) any matter affecting the Authority referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.
- (2) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

Accountability of chief executive to Oireachtas Committees

20. (1) In this section “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in *section 19* or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee.
- (2) Subject to *subsection (3)*, the chief executive shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Authority.
- (3) The chief executive shall not be required to give account before a Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.

- (4) Where the chief executive is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the chief executive is before it, the information shall be so conveyed in writing. 5
- (5) Where the chief executive has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion—
- (a) the chief executive may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or 10
- (b) the chairperson of the Committee may, on behalf of the Committee, make such an application, 15
- and the High Court shall determine the matter.
- (6) Pending the determination of an application under *subsection (5)*, the chief executive shall not attend before the Committee to give account for the matter the subject of the application.
- (7) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)*, but if the High Court determines that *subsection (3)* does not apply, the chief executive shall attend before the Committee to give account for the matter. 20
- (8) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy. 25

PART 4

AMENDMENT OF ROADS ACT 1993

Amendment of section 19 of Act of 1993 (specific functions of the Authority)

21. Section 19 (as amended by section 7(a) of the Roads Act 2007) of the Act of 1993 is amended by substituting for paragraph (e) of subsection (1) the following: 30

“(e) specify standards in relation to design, construction or maintenance works to be complied with by persons carrying out such works;”.

Bye-laws where Authority performs function of road authority

22. Part III of the Act of 1993 is amended by inserting after section 19 the following: 35

“Bye-laws where Authority performs function of road authority

19A. (1) Where a decision is made by the Authority under section 19(2) to perform a particular function in relation to the maintenance of a

national road otherwise than through a road authority, the Authority may, subject to subsections (2) to (4), make such bye-laws as it considers expedient for the purposes of the maintenance of that national road.

- (2) The Authority shall not make bye-laws under subsection (1) without having first consulted with—
 - (a) the appropriate road authority that is a local authority within whose functional area the road in respect of which it proposes to make bye-laws under subsection (1) is situated, and
 - (b) the Commissioner.
- (3) Before making bye-laws under subsection (1), the Authority shall publish a notice in one or more newspapers circulating in the area where the national road to which the bye-laws relate is located—
 - (a) indicating that it is proposed to make bye-laws and stating the purpose of the bye-laws,
 - (b) indicating the times at which, the period (being a period of not less than one month from the date of the first publication of the notice) during which, and the place at which, a copy of the draft bye-laws will be available for public inspection,
 - (c) stating that objections or representations may be made in writing to the Authority in relation to the draft bye-laws before such date as is specified in the notice (being a date that falls not less than 2 weeks from the end of the period for inspection of the draft bye-laws), and
 - (d) stating that a copy of the draft bye-laws may be purchased on payment of such fee as is specified in the notice not exceeding the reasonable cost incurred in the making of such copy.
- (4) Before making bye-laws, the Authority shall consider any objections or representations which have been made to it in accordance with a notice under subsection (3) and not withdrawn.
- (5) Bye-laws made by the Authority under this section shall come into effect on such date as is specified in those bye-laws.
- (6) Notice of the making of bye-laws under this section and of the place in which copies of the bye-laws may be purchased or inspected shall be published in *Iris Oifigiúil* and in one or more newspapers circulating in the area where the national road to which the bye-laws relate is located.
- (7) A person who contravenes a bye-law made under this section commits an offence.”.

Amendment of section 24 of Act of 1993 (grants to the Authority)

- 23.** Part III of the Act of 1993 is amended by substituting for section 24 the following:
- “24. The Minister may, subject to such conditions as he sees fit, in each

financial year make grants, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, out of moneys provided by the Oireachtas towards—

- (a) the capital and current expenditure of the Authority, or
- (b) the expenditure of the Authority in respect of its functions under this Act in relation to regional and local roads,

and grants under paragraph (a) shall be made having particular regard to the maintenance requirements of national roads.”.

Amendment of section 64 of Act of 1993 (offences under Part V)

- 24.** Section 64 (inserted by section 4 of the Roads Act 2007) of the Act of 1993 is amended by substituting for subsection (4) the following:

- “(4) The amount of any toll due and payable by a person under this Part may be recovered from that person as a simple contract debt by the road undertaking concerned in any court of competent jurisdiction and, for the purposes of this subsection, may be recovered as if the toll due and payable was founded on a contract made where—
- (a) the toll is being charged and collected, or
 - (b) the liability to pay the toll is incurred.”.

Amendment of section 82 of Act of 1993 (grants to road authorities)

- 25.** Part VI of the Act of 1993 is amended by substituting for section 82 the following:

- “82. The Minister may, subject to such conditions as he sees fit, in each financial year—
- (a) make grants, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, out of moneys provided by the Oireachtas to road authorities in respect of any or all of their functions under this Act or otherwise in relation to public roads,
 - (b) request the Authority to, and if requested the Authority shall, make grants of such amounts, to road authorities, or others, in respect of any or all of their functions under this Act or otherwise in relation to regional or local roads, and
 - (c) make payments, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform out of moneys provided by the Oireachtas, to any person or body in respect of services rendered, or goods supplied, in relation to public roads.

Administration of grants to road authorities

- 82A. The Minister may request the Authority to, and if requested the Authority shall, administer the payment of grants to road authorities under paragraph (b) of section 82 on his or her behalf and to do all such things as arise out of, are consequential on or are necessary in the administration of such payments.”.

SCHEDULE

Section 6(2)

EXCLUDED ENACTMENTS FOR PURPOSES OF SECTION 6(2)

1. Section 18 of National Treasury Management Agency (Amendment) Act 2000. 5
2. Schedule 1 to Public Service Superannuation (Miscellaneous Provisions) Act 2004.
3. Schedule to Financial Emergency Measures in the Public Interest Act 2009.
4. Schedule to Financial Emergency Measures in the Public Interest Act 2010.
5. Schedule 1 to Ministers and Secretaries (Amendment) Act 2011.
6. Schedule to Public Service Pensions (Single Scheme and Other Provisions) Act 2012. 10
7. Schedule to Ombudsman (Amendment) Act 2012.

Bille na mBóithre, 2014

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú maidir leis an nGníomhaireacht um Fháil Iarnród a dhíscaoileadh agus maidir lena feidhmeanna agus lena foireann a aistriú chuig an Údarás um Bóithre Náisiúnta; do leasú Acht na mBóithre, 1993 agus an Achta Iompair (Bonneagar Iarnróid), 2001; do dhéanamh socrú maidir le feidhmeanna breise a shannadh don Údarás um Bóithre Náisiúnta; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*An tAire Iompair, Turasóireachta agus Spóirt a
thíolaic,
8 Eanáir, 2014*

Roads Bill 2014

BILL

(as initiated)

entitled

An Act to provide for the dissolution of the Railway Procurement Agency and the transfer of its functions and staff to the National Roads Authority; to amend the Roads Act 1993 and the Transport (Railway Infrastructure) Act 2001; to provide for additional functions to be assigned to the National Roads Authority; and to provide for related matters.

*Presented by the Minister for Transport, Tourism
and Sport,
8th January, 2014*

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