



An Bille um Shábháilteacht Iarnróid, 2026
Railway Safety Bill 2026

Meabhrán Míniúcháin agus Airgeadais
Explanatory and Financial Memorandum



AN BILLE UM SHÁBHÁILTEACHT IARNRÓID, 2026

RAILWAY SAFETY BILL 2026

EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of Bill

The purpose of the Bill is to provide statutory provisions in primary legislation for the reporting and investigation of railway accidents and incidents and for the amendment and updating of the Railway Safety Act 2005, involving:

- to provide a basis in primary legislation to continue the Railway Accident Investigation Unit (RAIU) established in accordance with Regulation 4 of the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2014, to enable it to perform the function of investigating railway accidents and incidents relating to any railway and to enable the Minister for Transport to make regulations to prescribe specified railways and set out provisions for RAIU investigations in relation to specified railways which include light railways (Luas), metro railway, heritage railways, etc.
- to amend and update the Railway Safety Act 2005 and in particular, the provisions in Part 9 and Part 10 of that Act in relation to intoxicants and safety critical workers working on railways for testing, sampling, analysis and the enforcement role of An Garda Síochána under Part 10; and
- to make a consequential amendment to Schedule 1 to the Freedom of Information Act 2014 to provide that the Schedule will apply to records of the Medical Bureau of Road Safety that relate to certain functions performed by the Bureau for the purposes of the Railway Safety Act 2005 in the same manner as Schedule 1 applies at present to the corresponding records that arise in relation to the corresponding functions performed for the purposes of the Road Traffic Acts 1961-2024.

Main Provisions of the Bill

PART 1

Preliminary and General

Section 1 – Short title, commencement and construction

This section is a standard provision, which sets out the short title of the Bill and provides for commencement and construction. Part 1 will commence on enactment of the Bill and the Minister for Transport will commence the other provisions by Commencement Order, or several

Orders. Part 2 and the Railway Safety Act 2005 will be construed together as one Act.

Section 2 – Interpretation

This section provides definitions that are used in the Bill.

PART 2

Investigation of serious accidents, accidents and incidents by Railway Accident Investigation Unit

The background to Part 2 is that the Railway Accident Investigation Unit (RAIU) is the independent statutory body that carries out railway accident investigations in the State. The Railway Safety Act 2005 provided for the establishment of a railway safety commission and that an independent railway incident investigation unit be established to operate within the commission. EU railway safety legislation required that a national safety authority and a national investigation body must operate independently from each other. The Commission for Railway Regulation is designated as the national safety authority.

The current RAIU was established under the national transposition of an EU Railway Safety Directive in 2014 and is designated as the national investigation body. The RAIU replaced the incident investigation body that had operated prior to this under the Act of 2005. Under these Regulations (referred to in the Bill as the “Regulations of 2014”) the RAIU had statutory powers to investigate accidents and incidents for all railways.

The legislative position changed in 2020. A recast EU railway safety directive (Directive (EU) 2016/798) came into effect in Ireland on 31 October 2020 and replaced the earlier directive. The recast EU Directive has a reduced scope and, in Ireland, only applies to the Iarnród Éireann railway network. It was transposed into Irish law by the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2020 (referred to in the Bill as the “Regulations of 2020”). The Regulations of 2020 provide for the continuance of the RAIU and replaced the accident investigation provisions and powers for RAIU that were in the Regulations of 2014.

To avoid a gap arising in the investigation powers of the RAIU after 31 October 2020, the Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Act 2020 (referred to in the Bill as the “Act of 2020”) was enacted to provide that the RAIU would, from 31 October 2020, continue to have a statutory basis for reporting on and the investigation of accidents involving certain railways that fall outside the scope of the EU Directive including light railway, metro railway, heritage/tourist railway. The Act of 2020 provided that the powers and functions of the RAIU under the Regulations of 2020 would apply to certain railway including light railway, metro railway, heritage/tourist railway so the Act of 2020 operates to ensure the continuation of the ‘status quo’ regarding the existing powers and functions of the RAIU to cover all railways. This legislative arrangement continues to operate satisfactory for the RAIU since October 2020. It has been an effective stop gap measure, but further primary legislation would be required whenever there is another recast of EU railway safety legislation.

The objective for the longer term is that the statutory basis for the RAIU would be underpinned in primary legislation and that a separate, stand-alone statutory basis would be put in place for the investigation

of accidents for railways that do not come within the scope of the Regulations of 2020. Provisions to that end are now provided in Part 2 of the Bill.

Section 3 – Interpretation – Part 2

This section provides definitions for key words and terms used in Part 2 of the Bill.

Section 4 – Laying of regulations.

This section contains the standard provisions to lay any regulations made by the Minister under Part 2 before each House of the Oireachtas.

Section 5 – Railway Accident Investigation Unit

This section restates the provisions that are provided in Regulation 4 of the Regulations of 2020 to provide a statutory basis in primary legislation for the continuation in existence of the RAIU (established under regulations in 2014). The investigation remit of RAIU covers the Iarnród Éireann network under the Regulations of 2020 and is applied, through the Act of 2020, to other railways (these are listed in the note on section 6). Section 5 will replace the existing statutory provisions and will apply to investigations in relation to the Iarnród Éireann network and to specified railway under Part 2 of the Bill and to any function of the RAIU under any other enactment. The section restates mandatory criteria for the independence of the RAIU and the powers of the Minister for Transport to appoint investigators, to nominate a Chief Investigator, to furnish each investigator with a warrant of his or her appointment and the function in relation to the remuneration of RAIU investigators.

Section 6 – Minister to make regulations providing for investigations relating to railway

This section is an enabling provision that confers power on the Minister for Transport to make regulations to provide for the investigation by the RAIU of accidents and incidents relating to any railway, heritage railway, rail network or railway vehicle, including light railway and metro. It provides that the Minister may prescribe the railway, referred to in Part 2 as “specified railway” to which the section 6 regulations apply and sets the matters that may be prescribed or provided for in the section 6 regulations in relation to the carrying out of an investigation. These are the same matters that apply at present to the Iarnród Éireann network under the Regulations of 2020 and applied to the following railways through the Act of 2020:

- (i) metro, tram or other light railway system
- (ii) privately owned rail network that exists solely for use by the infrastructure owner for its own freight operations insofar as it has an interface with a public road or with another railway system
- (iii) heritage railway vehicle that runs on the railway system in the State.
- (iv) heritage railway, museum railway or tourist railway that operates on its own network including workshops, vehicles and staff, and
- (v) any other railway, or person that operates a railway, to which the Regulations of 2020 do not apply

Section 27 in the Bill provides for the repeal of the Act of 2020 and it is proposed that, on the same date section 27 and Part 2 of the Bill are commenced to come into operation, the railways listed at (i) to (v) above will be the first to be prescribed as “specified railway” in regulations to be made under section 6. The provisions in the Regulations of 2020 that

overlap with the content in Part 2 will be revoked on that same date. The RAIU will then have the investigation powers and functions that are set out in Part 2 of the Bill and will continue to apply the specific provisions in the Regulations of 2020 that apply to the Iarnród Éireann network for the purposes of the EU Railway Safety Directive.

Section 7 – Investigations

This section provides principles and criteria provisions for investigations by the RAIU that will apply to specified railways. The content mirrors the provisions that apply for the RAIU under the Regulations of 2020 in respect of the Iarnród Éireann network and which are applied at present to other railways (these are listed in the information in section 6) through the Act of 2020.

It provides that an investigation relating to specified railway shall in no case be concerned with apportioning blame or liability, shall be carried out independently and shall be separate from any proceedings whose function is to apportion blame or liability. The obligation of the RAIU towards the victims of accidents or incidents is set out. The RAIU may obtain operational and technical expertise, internally or externally, depending on the accident or incident to be investigated and may, if necessary, request the assistance of investigating bodies in other states to supply expertise or to carry out technical inspections, analyses or evaluations.

Section 8 – Notification and reporting of accidents and incidents

This section restates the provisions that are in Regulation 7 of the Regulations of 2020 for notification and reporting of accidents to RAIU and to the Commission for Railway Regulation. Section 8 will replace the existing statutory provisions and will apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill.

When an accident or incident occurs the railway undertaking, infrastructure manager or railway organisation concerned (referred to in this memorandum as “a railway body”) shall immediately notify the RAIU and the Commission with all available information, brief particulars and details of the location and then to follow up with a written report on the particulars of the accident or incident. The Commission must send a report of the accident or incident to the Minister for Transport. The section sets out circumstances for reporting requirements on a railway body and failure to comply with the notification reporting requirements is an offence. The RAIU must decide, not later than 2 months after notification, whether to start an investigation.

Section 9 – Requirement to provide information

This section provides that as soon as a railway body is notified of the commencement of an investigation in accordance with regulations made under section 6 of the Bill in relation to specified railway, the railway body is required to provide the RAIU with details of records and information that may be relevant to the investigation.

Section 10 – Investigation Unit may investigate relevant decision, etc. of Commission

This section provides that the RAIU may, for the purposes of its functions under regulations made under section 6 in relation to specified railway, investigate any decision, act or omission of the Commission for Railway Regulation where it is appropriate to do so as part of an investigation. This function is available to the RAIU at present under Regulation 5(22) of the Regulations of 2020.

Section 11 – Investigators

This section restates the provisions that are in Regulation 6 of the Regulations of 2020 that apply to the appointment of investigators to conduct investigations in relation to the Iarnród Éireann network. Regulation 6 is also applied at present, through the Act of 2020, to other railways (these are listed in the information in section 6).

Section 11, to replace the existing statutory provisions and apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill, provides that the Chief Investigator may appoint himself or herself to be the investigator-in-charge responsible for the organisation, conduct and control of any particular investigation or shall appoint an investigator from RAIU or engage any other qualified person to perform the functions of investigator-in-charge. It provides that the Chief Investigator may engage consultants or advisers if necessary to assist the RAIU in the performance of its functions; one or more qualified persons may be engaged to assist the investigator-in-charge and must be issued with warrants by the Minister to act as an investigator during the period of engagement. Any fees due to these persons shall be paid by the RAIU. It provides that the investigator-in-charge shall be independent of any parties involved in the accident or incident whose interests could conflict with the functions of the investigator-in-charge and there are requirements on a qualified person as regards provision of information, to respect the confidentiality of the investigation and not to disclose information.

Section 12 – Investigator to be provided with access, etc

This section restates the provisions that are in Regulation 10 of the Regulations of 2020 to give RAIU investigators access to sites, records, etc for the purposes of investigations in relation to the Iarnród Éireann network. Regulation 10 is also applied at present, through the Act of 2020, to other railways (these are listed in the information in section 6).

Section 12, to replace the existing statutory provisions and apply to investigations by the RAIU for the Iarnród Éireann network and for specified railway under Part 2 of the Bill, provides that, for the purposes of an investigation, a RAIU investigator shall be provided with access to the site of the accident or incident, to the rolling stock involved, the related infrastructure and control installations. Details on the matters for access are specified in paragraphs (a) to (g). It is provided that the RAIU shall consult with the railway bodies, as appropriate, to establish agreed procedures for entry by investigators on railway property.

Section 13 – Powers of investigators

This section restates the existing provisions that are in Regulation 11 of the Regulations of 2020 laying down powers for RAIU investigators in relation to the Iarnród Éireann network. Regulation 11 is also applied, through the Act of 2020, to other railways (these are listed in the information in section 6).

Section 13, to replace the existing statutory provisions for powers of investigators to apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill, provides that an investigator shall be independent in carrying out an investigation. The powers that an investigator may exercise for the purposes of carrying out an investigation are set out in paragraphs (a) to (r) including powers for entry to site of accident, examination of records, the taking of samples and powers to require and direct that certain actions be taken. Procedures are set out for when an investigator takes possession of any article or substance, for the taking of a sample and for interaction with a railway body. An answer or statement given to an investigator may be reproduced in whole or in part

in the investigation report but is not admissible as evidence in civil or criminal proceedings.

Section 14 – Search warrant

This section restates the existing provisions that are in Regulation 12 of the Regulations of 2020 for search warrants and power of entry that apply to investigations in relation to the Iarnród Éireann network. Regulation 12 is also applied at present, through the Act of 2020, to other railways (these are listed in the information in section 6).

Section 14, to replace the existing statutory provisions and apply to the Iarnród Éireann network and to specified railway under Part 2 of the Bill, provides that an investigator shall not enter a domestic dwelling except under a warrant or with the consent of the occupier and if an investigator in the exercise of his or her powers is prevented from entering any premises, place or vehicle, an application may be made to a District Court for a warrant authorising entry. A process is provided for the issue of a warrant by a judge of the District Court authorising entry for the investigator and conditions in relation to the execution of that warrant.

Section 15 – Provision of records and other information

This section restates the existing provisions regarding the provision of records and other information to the RAIU that are in Regulation 13 of the Regulations of 2020 for investigations in relation to the Iarnród Éireann network. Regulation 13 is also applied at present, through the Act of 2020, to other railways (these are listed in the information in section 6).

The section provides that section 15 will replace the existing statutory provisions and will apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill. It provides that a RAIU investigator may require a railway body to make records available for inspection and require the attendance of any person for the purpose of providing information that may be relevant to the investigation. It provides that a person who is required to attend shall be entitled to reimbursement by RAIU of any reasonable expenses and that an investigator may make copies or take extracts from the information gathered for the purposes of the investigation.

Section 16 – Offence of obstructing investigator

This section restates the existing provisions for the offence of obstructing a RAIU investigator that are in Regulation 14 of the Regulations of 2020 for investigations in relation to the Iarnród Éireann network. Regulation 14 is also applied at present, through the Act of 2020, to other railways (these are listed in the information in section 6).

Section 16 provides for the replacement of the existing statutory provisions and it will apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill. It provides that it is an offence for a person to obstruct or impede an investigator, to fail to comply with a requirement or direction of an investigator or to give information to an investigator which the person knows to be false or misleading. A person guilty of an offence under this section shall be liable to a class A fine.

Section 17 – Requirement to give name and address to member of An Garda Síochána, offence and arrest without warrant

This section restates the provisions for exercise power of arrest by An Garda Síochána that are in Regulation 15 of the Regulations of 2020 for investigations in relation to the Iarnród Éireann network. Regulation 15 is also applied at present, through the Act of 2020, to other railways (these are listed in the information in section 6).

Section 17, to replace the existing statutory provisions and apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill, provides that a member of An Garda Síochána, accompanying an investigator, may require of any person to give name and address and it is an offence if the person refuses or fails to comply or to give a false or misleading name or address. A person guilty of an offence shall be liable to a class A fine. Section 17 also provides that a Garda accompanying an investigator may arrest without warrant a person who obstructs or impedes an investigator or refuses to comply with a request or requirement of an investigator or a person who is required to give name and address or gives a name or address which the Garda has reasonable grounds for believing to be false or misleading.

Section 18 – Prosecution of offences summarily

This section provides for prosecution of offences under Part 2 of the Bill and that proceedings for an offence may be prosecuted summarily by the Minister for Transport. Proceedings for an offence under section 8(4) may be prosecuted summarily by the Commission for Railway Regulation where a railway body does not comply with certain obligations.

Section 19 – Offence by body corporate

This section restates the provisions that are in Regulation 17 of the Regulations of 2020 for an offence by a body corporate arising in investigations in relation to the Iarnród Éireann network. Regulation 17 is also applied at present, through the Act of 2020, to other railways (these are listed in the information in section 6). Section 19, to replace the existing statutory provisions and apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill, provides for the prosecution of an offence that is committed by a body corporate.

Section 20 – Immunity from claims

This section provides for immunity from claims for the RAIU to apply in relation to specified railways under Part 2 of the Bill. It is identical to the provisions that are in Regulation 18 of the Regulations of 2020 for the RAIU in relation to investigations in relation to the Iarnród Éireann network. Regulation 18 is also applied at present, through the Act of 2020, to other railways (these are listed in the information in section 6).

Subsection (1) provides immunity for an investigator from claims for damages in respect of anything done in good faith and in the course of carrying out investigations under Part 2 including functions in relation to the preparation and publication of a report. Subsection (2) provides information in relation to the matters that come within the ambit of a report.

Section 21 – Investigation report

This section provides provisions to apply to investigation reports of the RAIU in relation to specified railway under Part 2 of Bill – the Minister for Transport may, in regulations made under section 6, provide for the preparation, publication and communication of investigation reports by the RAIU and may prescribe procedures for the preparation of an investigation report and for its circulation. Section 21 provides prohibitions on disclosure of draft investigation reports except with the prior consent in writing of the RAIU and any person who contravenes that requirement is guilty of an offence and liable on summary conviction to a class A fine.

Section 22 – Safety recommendations

This section applies to specified railways under Part 2 of Bill. The provisions are the same as the corresponding provisions that the RAIU use under Regulation 5 of the Regulations of 2020.

The section provides that the Commission for Railway Regulation must take measures to ensure that a safety recommendation issued by the RAIU is taken into consideration, and, where appropriate, acted upon, any railway body or other person to whom a safety recommendation had been directed by the RAIU shall send a progress report to the Commission on measures taken or planned. The Commission or other bodies to which a safety recommendation has been addressed shall report back to the RAIU on measures taken or planned.

Section 23 – Investigation Unit may re-open investigation

This section applies to investigations carried out under Part 2 of the Bill. It mirrors the provisions that are in place under Regulation 9(5) of the Regulations of 2020 and they are at present, through the Act of 2020, to other railways (these are listed in the information in section 6).

It provides that the RAIU may re-open an investigation if satisfied that there is new evidence available to support a re-opening and that Part 2 and any regulations made under it will apply to an investigation re-opened in the same way as they apply to an investigation under this Part.

Section 24 – Annual report by Investigation Unit

This section provides that the Minister may, by regulations made under section 6, provide that the RAIU shall publish an annual report in relation to investigations relating to specified railway under Part 2 of the Bill and may prescribe matters in relation to the publication.

Section 25 – Copyright in report published by Investigation Unit

This section provides that copyright in any report published by the RAIU remains with the RAIU. Copyrighted material may be used freely for educational or safety-related purposes but not for commercial benefit. This section mirrors the provisions for copyright that apply at present under the Regulation 9(7) of the Regulations of 2020.

Section 26 – Saver

This section provides saver provisions for the RAIU and it will be necessary that these key continuity provisions come into operation on the same date as the commencement of Part 2 of the Bill, the repeal of the Act of 2020 and the revocation of some of the regulations in the Regulations of 2020. The section provides that savers and continuity is bridged across from the Regulations of 2020 to the Bill for the role of the Chief Investigator, an investigator, investigator-in-charge, any warrant of appointment furnished or issued and in respect of any search warrant issued.

Section 27 – Repeal and transition provision

Section 27 provides for the repeal of the Act of 2020 (this is the Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Act 2020) and when the repeal comes into operation, the Regulations of 2020 will cease to apply to the certain railway that were listed in the Act of 2020. It is proposed that the railways concerned will be prescribed as ‘specified railway’ in regulations to be made under section 5 of the Bill.

Section 27 provides transitional provisions for the continuity under Part 2 of any investigation or the preparation of any report that relates to any specified railway that has been commenced by the RAIU under the

Regulations of 2014 or of 2020 but not completed shall be continued, the investigation or the preparation of the report shall be continued in accordance with regulations made under regulation 6; that any reports prepared or published under the Regulations of 2014 or of 2020 relating to specified railway shall be deemed to have been prepared or published under Part 2; that any safety recommendation or interim safety recommendation relating to specified railways issued pursuant to the Regulations of 2014 or of 2020 shall be deemed to be a safety recommendation or interim safety recommendation issued by the RAIU under Part 2.

Section 28 – Amendment of section 2 of Act of 2005

This section provides that section 2 be amended by the insertion of definitions for “Chief Investigator”, “Investigation Unit” and “investigator”. This will link the definitions and their meaning in Part 2 of the Bill to apply in the Act of 2005.

PART 3

Miscellaneous amendments to Act of 2005

This Part contains updating and amendments to the Railway Safety Act 2005 (referred to in this Memorandum as the “Act of 2005”).

Section 29 – (Amendment of section 2 of Act of 2005)

This section provides for the updating of definitions for use in the Act of 2005. It substitutes updated definitions for ‘accident’, ‘incident’, ‘public road’, ‘serious accident’ and ‘train’ and inserts definitions for ‘doctor’ (to replace the use of the term ‘medical practitioner’), ‘nurse’, ‘railway property’, Regulations of 2020’ and ‘road rail vehicle’.

Section 30 – (Amendment of section 10(1)(b) of Act of 2005)

This section expands section 10 (Functions of the Commission) to provide that the functions of the Commission for Railway Regulation include enforcement of any other legislation, including regulations made under the European Communities Act 1972.

Section 31 – (Amendment of section 11 of Act of 2005)

This section expands section 11 (Conferral of additional functions) to provide that the additional functions that may be conferred by order on the Commission for Railway Regulation under this section may include functions in relation to the regulation of railways.

Section 32 – (Amendment of section 29(1) of Act of 2005)

This section amends section 29 (Statement of Strategy) in subsection (1) to provide that the Commission for Railway Regulation must prepare a new Statement of Strategy every 5 years instead of every 3 years. The revised timeframe is more appropriate for a regulatory body of this nature.

Section 33 – (Removal of references to railway undertaking in Act of 2005)

This section is a block technical amendment to have terminology consistent throughout the Act of 2005. It lists 7 sections to be updated by substituting the word ‘organisation’ for ‘undertaking’.

Section 34 – Repeal of section 41 of Act of 2005

This section provides for the repeal of section 41 (International Services). The provisions in section 41 only have application for the operation of international rail services between two member states of the EU and, post-Brexit, section 41 is obsolete.

Section 35 – (Amendment of section 42 of Act of 2005)

This section amends section 42 (Safety assessment of new works) to provide timeframes for the Commission for Railway Regulation to carry out a two-stage process for safety assessment of new works.

Section 36 – Amendment of section 43 of Act of 2005

This section amends section 43 (Safety assessment of new rolling stock) to provide timeframes for the Commission for Railway Regulation to carry out a two-stage process for safety assessment of new rolling stock.

Section 37 – Amendment of section 50(5)(c) of Act of 2005

This section amends section 50 (Safety audits). It is a technical amendment to update terminology to provide for the use of ‘accident or incident’ for ‘incident’.

Section 38 – Amendment of section 53 of Act of 2005

This section provides technical amendments to update terminology to amend section 53 (Investigations by railway organisations) to provide for use of ‘accident or incident’ instead of ‘incident’ and to substitute ‘organisation’ for ‘undertaking’.

Section 39 – Amendment of section 64 of Act of 2005

This section provides for a technical amendment to update terminology in section 64 (Tribunal of Inquiry) to use of ‘accidents or incidents’ instead of ‘incidents’.

Section 40 – Amendment of section 73 of Act of 2005

This section provides for technical amendments to update terminology in section 73 (Inspectors) to substitute ‘undertaking’ with ‘organisation’ in 6 places. It also provides for the deletion of subsection (15) – this removes the definition of ‘railway property’ from section 73 and this definition is instead being inserted into section 2 (Interpretation).

PART 4**Intoxicants and persons working on railway infrastructure**

The purpose of this Part of the Bill is to amend and update Part 9 of the Act of 2005.

Part 9 sets out provisions for railway organisation to have codes of conduct for the workplace, for sampling procedures for intoxicants (alcohol, drugs), for the roles of authorised persons and for analysis of samples.

Section 41 – Amendment of section 85 of Act of 2005

This section amends Section 85 (Interpretation – Part 9) and provides for the substitution of expanded definitions for ‘analysis’ and ‘sample’. The definitions for ‘analysis body’, ‘code of conduct’ and ‘sampling procedures’ are amended to remove a non-core role for the Railway Safety Commission.

Section 42 – Amendment of section 86 of Act of 2005

Section 86 (Application Part 9) is amended to provide that Part 9 of the Act of 2005 would apply to a heritage railway which operates train services on the railway infrastructure of another railway organisation where that infrastructure is used for carriage of the public or freight.

Section 43 – Amendment of section 88 of Act of 2005

This section amends Section 88 (Code of conduct in relation to intoxicants) to provide technical amendments in subsections (1), (2) and (8) to update terminology for consistency to replace ‘undertaking’ with ‘organisation’ and that subsections (4) to (7) be deleted to remove a non-core role for the Railway Safety Commission. Section 43 provides to amend subsection (11) to revise the timeframe for end of year reporting by railway organisations to the Commission for Railway Regulation and to delete the discretionary administrative role for the Commission to direct the format of the report. It also provides for amendment of subsection (12) to provide that the Commission can include details of the reports it receives from railway organisations under subsection (11) as a part of its annual report that it must lay before each House of the Oireachtas pursuant to section 28. This reduces the administrative burden of being required to lay two separate reports.

Section 44 – Amendment of section 89 of Act of 2005

Section 89 relates to sampling procedures in the workplace for testing safety critical workers for intoxicants (alcohol, drugs).

This section provides that subsection (1) be amended to provide that an authorised person may require a safety critical worker to provide a sample of “breath, oral fluid, blood or urine” in accordance with sampling procedures. The term “intoxicant” is substituted for “drug”. A role for an inspector of the Railway Safety Commission to make a requirement of a safety critical worker is removed and terminology is updated to substitute “organisation” for “undertaking”.

The amendment of subsection (2) provides that only a doctor or a nurse, who has been designated by an authorised officer for the purposes of section 89, can take a specimen of blood from a safety critical worker. A sample of breath, oral fluid or urine can be provided to an authorised person. Amendments to subsections (4) and (5) provide for use of the term “doctor” instead of “medical practitioner” and of the term “intoxicants” instead of “drugs”.

PART 5

Amendments to Part 10 of Act of 2005

The existing Part 10 of the Act of 2005 sets out criminal offences for persons working on railway property who contravene the requirements in Part 10 including offences for exceeding the statutory limits for alcohol or for refusal or failure to comply with requirements made for the purposes of enforcement. Part 10 sets out the procedures and processes for An Garda Síochána including power of arrest and the functions of the Medical Bureau of Road Safety for analysis of specimens of blood or urine forwarded by An Garda Síochána for concentration levels of alcohol and for presence of a drug or drugs. The provisions in the existing Part 10 were the same as the corresponding powers and functions that An Garda Síochána and the Bureau had in 2005. The provisions in the Road Traffic Acts have evolved significantly since 2005 and the purpose of Part 5 in the Bill is to update and expand Part 10 in line with the current provisions in relation to intoxicants (alcohol and drugs) that are set out in Traffic Act 2010 as amended.

Section 45 – Amendment of section 93 of Act of 2005

This section provides that section 93 (Definitions, Part 10) be amended to update definitions: the definition for “analysis” is expanded to include the determination of the concentration of a drug specified in Schedule 3. It provides that definitions be inserted for “drug” (it includes all drugs

whether legally obtained or otherwise) and for “medical exemption certificate” and that the definition of “safety critical task” be updated to use the terminology “organisation” instead of “undertaking”.

Section 46 – Regulations for the purposes of Part 10

This section provides that a new section 93A be inserted into the Act of 2005. It is a standard enabling power to provide that the Minister for Transport may by regulation provide for any matter referred to in Part 10 as prescribed or to be prescribed. When the Bill is enacted regulations must be made to support the implementation of Part 10.

Section 47 – Amendment of section 95 of Act of 2005

This section provides that section 95 (Application and authorised persons) be amended in subsection (1) and to insert a new subsection (1A) to provide that section 95 applies to a heritage railway which operates train services on the railway infrastructure of another railway organisation where that infrastructure is used of carriage of the public or freight.

It provides that subsection (3) be amended and subsection (7) be deleted to remove an administrative non-core function for the Commission for Railway Regulation. Terminology is updated in subsections (4), (6) and (10) to substitute “organisation” for “undertaking”.

Section 48 – Amendment of section 96 of Act of 2005

Section 96 (Function of the Bureau in relation to analysis) sets out the functions to be performed by the Medical Bureau for Road Safety (“the Bureau”) to carry out analysis and reporting in respect of blood or urine specimens that are forwarded to it by An Garda Síochána under Part 10.

Section 48 amends section 96 to provide that the Bureau shall arrange for the determination of the concentration of alcohol in blood or urine specimens that are forwarded for analysis and the determination of the presence (if any) of a drug or drugs in such specimens. It amends section 96(2) to expand the functions of the Bureau to provide for the:

- determination of the concentration of a drug or drugs present in a specimen of blood,
- provision of equipment for the taking of such specimens.
- approval of apparatus for indicating the presence of alcohol, of apparatus for determining the concentration of alcohol in the breath and of apparatus for indicating the presence of drugs in oral fluid.

In addition, section 48 amends of section 96 by inserting 2 new subsections:

Subsection (2A) provides that the Bureau may arrange for the supply and testing of apparatus for indicating the presence of alcohol, of apparatus for determining the concentration of alcohol in the breath and arrange for the supply and testing of apparatus for indicating the presence of drugs in oral fluid.

Subsection (2B) provides that equipment or apparatus provided, supplied, approved or tested by the Bureau under Part 2 of the Road Traffic Act 2010 shall be deemed to have been provided, supplied, approved or tested by the Bureau for the purposes of enforcement by An Garda Síochána under Part 10 of the Railway Safety Act 2005. The purpose of this amendment is to establish that the equipment or apparatus that is supplied by the Bureau to An Garda Síochána for alcohol and drug testing for the purposes of the Road Traffic Act 2010 is to be used

by An Garda Síochána for testing of railway safety critical workers. The amendments to section 96 align the content with the corresponding provisions for the functions of the Bureau under the Road Traffic Act 2010.

Section 49 – Amendment of section 97 of Act of 2005

At present section 97 (offences involving intoxicants by persons working on railway property) provides that it is an offence for a safety critical worker, if within 3 hours of performing a safety critical task or of making himself or herself available to perform such a task by attending at work, there is present in his or her body the concentration of alcohol that exceeds the limits in section 97(2).

Section 49 amends section 97 to provide that the limits in subsection (2) be amended and reduced as follows:

- (i) the existing limit for alcohol in blood of a concentration of 80 milligrammes of alcohol per 100 millilitres of blood be reduced to 20 milligrammes.
- (ii) the existing limit for alcohol in urine of a concentration of 107 milligrammes of alcohol per 100 millilitres of urine be reduced to 27 milligrammes.
- (iii) the existing limit for alcohol in breath of a concentration of 35 microgrammes of alcohol per 100 millilitres of breath be reduced to 9 microgrammes.

The proposed new limits align with the maximum levels that apply at present under the Road Traffic Act 2010 for “specified persons” – these persons include professional drivers such as holders of licences to drive small public service vehicles (taxis), holders of licences to drive categories of heavy goods vehicles, buses & coaches and includes learner drivers also.

Section 49 also amends section 97 to provide for the insertion of four new subsections for specified drugs:

Subsection (2A) introduces that it is an offence for a safety critical worker to have present in his or her body a quantity of a specified drug such that, within 3 hours of performing a safety critical task or of making himself or herself available to perform such a task by attending at work, the concentration of that drug in his or her blood is equal to or greater than the concentration specified in Schedule 3 to the Act of 2005. Section 69 in the Bill inserts the Schedule 3.

Subsection (2B) provides it is not an offence for a person under subsection (2A) if the person holds a medical exemption certificate for a specified drug that had been lawfully prescribed for him or her and which is signed by the doctor who prescribed it.

Subsection (2C) provides that a person who signs a medical exemption certificate containing information which he or she knows to be false is guilty of an offence and liable on summary conviction to a class C fine.

Subsection (2D) provides that section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.

These new subsections in the Bill mirror the corresponding provisions for specified drugs that are set out in the Road Traffic Act 2010.

Section 50 – Amendment of section 98 of Act of 2005

This section amends section 98 (Obligation to give specimen of breath). The requirements apply to railway safety critical workers in relation to the provision of a specimen of oral fluid are new measures that are being introduced into railway safety legislation. The updating of section 98 and the new provisions in the Bill mirror the corresponding powers and procedures that An Garda Síochána use in relation to requirements for the provision of a specimens of oral fluid under the Road Traffic Act 2010.

Subsection (1) is amended to substitute “an intoxicant” for “intoxicating liquor” and a reference to a role for an inspector (of the Commission for Railway Regulation) is deleted.

Subsection (3) is substituted to provide that a member of An Garda Síochána may, in the circumstances applicable to section 98 require a safety critical worker to provide a specimen of breath to test for presence of alcohol in the breath (this is an existing provision) and/or to provide a specimen of oral fluid to test for presence of drugs (this is a new provision). A safety critical worker must provide the specimen by using the apparatus provided by the member and in the manner indicated by the member. If the member does not have the testing apparatus at the scene, the safety critical worker must remain at that place for a period that does not exceed one hour until such apparatus becomes available and to then provide the specimen of breath or oral fluid, or both, by using the apparatus provided.

Section 50 also inserts a new subsection (3A) to provide procedures in respect of the provision of a specimen of oral fluid. The person is requested to produce for inspection any medical certificate of exemption in relation to a specified drug. After the provision of a specimen of oral fluid the person shall be requested to remain at a place or in a vehicle for a period that does not exceed 30 minutes until the apparatus used to provide the specimen of oral fluid indicates the presence or absence of drugs in the specimen.

A new subsection (3B) is inserted to provide procedures that an authorised person may require a safety critical worker to provide a specimen of breath and if the authorised person does not have the apparatus with him or her for the provision of a specimen of breath, the person must remain for a period not exceeding one hour until the apparatus becomes available and to then provide the specimen of breath by using the apparatus provided. Technical and consequential amendments are provided for subsections (4) and (5).

Subsection (7) is substituted to provide that in a prosecution of an offence that there is a presumption, until the contrary is shown, that the apparatus provided by a member of the An Garda Síochána for the purpose of taking a specimen of breath is an apparatus for indicating the presence of alcohol in the breath and the apparatus for taking a specimen of oral fluid are is an apparatus for the purpose of indicating the presence of drugs in oral fluid.

Section 51 – Arrest without warrant and power of entry

Section 51 substitutes section 99 (Arrest without warrant) to restate the power of arrest without warrant by a member of An Garda Síochána of a person who in the member’s opinion is committing or as committed an offence under section 97 or 98. It provides that the power of entry in subsection (2) is extended to also apply to an arrest made under section 111 (Dangerous working on railway).

Section 52 – Amendment of section 100 of Act of 2005

This section substitutes section 100 (Obligation to provide specimen following arrest) to update the Act of 2005 with provisions that mirror the corresponding provisions under the Road Traffic Act 2010. The amendment provides that a member of An Garda Síochána may, at a Garda station or in a hospital, make requirements of safety critical worker who has been arrested under section 99 to provide specimens of breath to a Garda or to provide specimens of blood or urine to a designated doctor or a designated nurse. Procedures are set out for this purpose. Subsection (2) and (3) provide offences for refusal or failure to comply with a requirement to give a specimen of breath to a Garda, to permit a designated doctor or designated nurse to take a specimen of blood or to provide them with a specimen of urine. Subsection (4) provides that in a prosecution for an offence, it is presumed, until the contrary is shown, that the apparatus used is an apparatus for determining the concentration of alcohol in the breath.

Section 53 – Amendment of section 101 of Act of 2005

This section substitutes a new section for section 101 (Obligation to provide blood or urine specimen while in hospital). The updated section mirrors the current powers and procedures for An Garda Síochána and the roles of a designated doctor or designated nurse that are set out in the corresponding section in the Road Traffic Act 2010.

Section 101 provides that a member of An Garda Síochána may make requirements of safety critical worker (who is admitted or attends at hospital following an accident or incident and the member is of opinion that the worker had consumed an intoxicant) to permit a designated doctor to take a specimen of blood or be provided with a specimen of urine. Section 53 expands section 101 to also permit a designated nurse to perform the function.

Section 53 provides that new subsections (5) to (10) be inserted to update section 101 in line with the powers and procedures that An Garda Síochána have under the corresponding provisions under the Road Traffic Act 2010:

Subsections (5) and (6) provide that if for medical reasons a person in hospital appears to be incapable of complying with a requirement to provide a specimen of blood or urine, a member of An Garda Síochána can direct a designated doctor or a designated nurse to take from the person a specimen of his or her blood but before giving such a direction must consult with the doctor treating the person and if the doctor advises the member that such a requirement or direction would be prejudicial to the health of the person the member shall not make such requirement or direction. Subsection (7) provides that a member of An Garda Síochána, for the purpose of making a requirement, may enter without warrant any hospital where the person is. Subsection (8) provides that a designated doctor or a designated nurse may enter any hospital for the purposes of section 101. Section 53(10) provides that it shall be lawful for a designated doctor or a designated nurse to take a specimen of blood from a person as directed a member under subsection (5).

Section 54 – Obligation to provide oral fluid specimen following arrest

This section provides for the introduction of a new measure in railway safety legislation and inserts a new section 101A into Act of 2005. This section mirrors the corresponding obligation to provide oral fluid specimens following arrest under the Road Traffic Act 2010.

Subsection (1) provides that where a person is arrested under section 99 or 111 and a member of An Garda Síochána is of the opinion that the person had, at the time of the alleged offence, consumed drugs, the member may, at a Garda Station or hospital, require the person to provide a specimen of oral fluid using an apparatus for indicating the presence of drugs in oral fluid in the manner indicated by the member. Under subsection (2) and (3), a person who refuses or fails to comply with a requirement of a member, commits an offence. In a prosecution for an offence, it is presumed, until the contrary is shown, that the apparatus used is an apparatus for indicating the presence of drugs in oral fluid. Subsection (4) provides that section (1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.

Section 55 – Obligation to provide blood specimen where suspected of certain offences involving drugs

This section inserts a new section 101B into the Act of 2005. The new section mirrors the powers and procedures for An Garda Síochána and the roles of a designated doctor or designated nurse that are set out in the corresponding section in the Road Traffic Act 2010.

Subsection (1) provides that where a person is arrested under section 99 or 111 and a member of An Garda Síochána (having carried out a preliminary drug test under section 98 or an oral fluid test under section 101A) is of the opinion that the person had contravened section 97(2A) (this is the offence for exceeding the limit for concentration of a specified drug in blood), the Garda may, at a Garda station or hospital, require the person to permit a designated doctor or a designated nurse to take from the person a specimen of blood. Under subsection (2), a person who, without a special or substantial reason, refuses or fails to comply with a requirement of a doctor or nurse in relation to the taking of a specimen of blood, commits an offence.

Section 56 – Medical examination at Garda Síochána station or hospital

This section inserts a new section 101C into the Act of 2005 to update the Act in line with the Road Traffic Acts. This section mirrors the powers and procedures for An Garda Síochána and the roles of a designated doctor or designated nurse that are set out in the corresponding section in the Road Traffic Act 2010.

Subsection (1) provides that where a person is arrested under section 99 or 111 or is admitted to hospital in the circumstances referred to in section 101, a Garda, at the Garda station or the hospital, may require the person to undergo a medical examination carried out by a designated doctor or designated nurse for the purpose of obtaining evidence that the person was unfit. Subsection (2) provides that it is an offence to refuse or fail to comply with a requirement.

Subsection (3) provides that the doctor or nurse who carries out medical examination of a person must make a written statement of the results. Subsection (4) provides that a Garda shall not make a requirement for a medical examination of a person who has been admitted to hospital unless a doctor treating the person has been consulted and it would not be prejudicial to the health of the person to make the requirement,

Subsections (5) and (6) provide that a Garda may enter a hospital without warrant for the purpose of making a requirement of a person to undergo a medical examination and a designated doctor or a designated nurse may enter a hospital for the purposes of carrying out a medical examination.

Section 57 – Detention of intoxicated persons where a danger to themselves or others

Section 57 substitutes section 102 (Detention of intoxicated persons where a danger to themselves or others) to update it to read as the “Road Traffic Act 2010”. It provides that section 102 applies to a safety critical worker who is at a Garda Station having been arrested under section 99 (Arrest without warrant) or under section 111 (Dangerous working on railway).

Section 58 – Amendment of section 103 of Act of 2005

This section provides that section 103 (Procedure following provision of breath specimen under section 100) be amended to substitute subsection (1) to provide the procedure for determining the concentration of alcohol following the provision of 2 specimens of breath and to insert a new subsection (1A) to provide that any regulations made under section 13(1A) of Road Traffic Act 2020 shall apply to a specimen under the Act of 2005.

Subsection (2) is substituted to provide the procedures to be complied with by a member of An Garda Síochána after using breath testing apparatus and includes the supply of statements (these are automatically produced by the apparatus) to the person concerned. Subsection (3) is substituted to provide the procedure that the person, who is supplied with statements under subsection (2), must comply with and the amendment to subsection (4) increase the penalties that apply for non-compliance with section 103. This is the same procedure that applies under the Road Traffic Act 2010.

Section 59 – Permission following taking of blood sample from unconscious person

This section inserts a new section 103A into the Act of 2005 to provide procedures that apply following where a specimen of blood was taken from a person by direction of a member of An Garda Síochána under section 101(5) in a hospital. This section mirrors the powers and procedures for An Garda Síochána and the roles of the designated doctors and nurses that are set out in the corresponding section in the Road Traffic Act 2010.

Subsection (1) and (2) provide that a Garda must, no later than 6 months, require the person to give his or her permission for a completed certificate to be forwarded by the Medical Bureau of Road Safety under section 105 and that a Garda is required to notify the Bureau as soon as practicable after the person has given permission. The Bureau shall not forward a completed certificate until it has received a notification under subsection (1). The Minister for Transport may prescribe forms for this section.

Section 59(5) provides that it is an offence, if a person, without reasonable excuse, refuses or fails to give permission for a completed certificate to be forwarded by the Bureau. Subsection (6) provides that, in a prosecution for an offence, it is a defence for the defendant to satisfy the court that there was a special and substantial reason for refusal or failure.

Section 60 – Amendment of section 104 of Act of 2005

This section amends section 104 (Procedure to be followed relating to specimens taken or provided) to provide that subsection (1) be substituted to set out the procedures that a designated doctor or a designated nurse must follow in relation to containers after taking a specimen of blood or having been provided with a specimen of urine and for completion of a prescribed form. Subsection (2) is substituted to set out the procedure for

offering a sealed container to the person to retain and subsection (3) is substituted to set out the procedure for forwarding a sealed container to the Medical Bureau of Road Safety. The amendment of section 104 is the same as the corresponding procedures that must be complied with under the Road Traffic Act 2010.

Section 61 – Amendment of section 105 of Act of 2005

This section amends section 105 (Procedure at Bureau regarding specimens) to expand the existing procedures to provide that the Medical Bureau of Road Safety may determine the concentration of a drug or drugs in a specimen forwarded to it (from a Garda Síochána station). This is a consequential amendment flowing from the proposed introduction of specified drugs in section 97(2A).

Section 62 – Amendment of section 106 of Act of 2005

This section amends section 106 (Frustrating prosecution) to provide for a reference to “an intoxicant” instead of “alcohol”. An intoxicant includes alcohol and drugs and any combination of drugs or of drugs and alcohol.

Section 63 – Amendment of section 107 of Act of 2005

This section amends section 107 (Evidence in proceedings) to provide for some technical amendments to text and to update terminology to refer to “doctor or nurse” instead of “medical practitioner”.

Section 64 – Evidential requirements in prosecution under this Chapter

This section provides for the insertion of 5 new sections into the Act of 2005 after section 107:

Section 107A – Provisions regarding certain evidence in prosecution under this Chapter

Subsection (1) sets out provisions regarding certain evidence on the hearing of a charge for an offence regarding the timing of consumption of an intoxicant by the defendant. Subsection (2) sets out provisions regarding certain evidence on the hearing of a charge for an offence regarding the concentration of alcohol in the defendant’s blood, urine or breath. Subsection (3) sets out provisions regarding certain evidence on the hearing of a charge for an offence regarding the concentration of a drug specified in Schedule 3 in the blood of the defendant. The new section 107A mirrors the corresponding evidential provisions in the Road Traffic Act 2010.

Section 107B – Written statement by member of Garda Síochána in respect of section 100(1), 101(1), 101(5) or 101B(1))

Subsection (1) provides the evidential status, if certain conditions are satisfied, for a written statement in relation to compliance by An Garda Síochána making requirements. Subsection (2) provides conditions to be satisfied regarding the statement. Subsection (3) provides the methods for delivery of a copy of the statement. The new section 107B mirrors the corresponding evidential provisions in the Road Traffic Act 2010.

Section 107C – Written statement by member of Garda Síochána in respect of requirement under section 101C

Subsection (1) provides evidential status, if conditions are satisfied, for a written statement by a member of a Garda Síochána in any proceedings against a person for an offence under section 101C. Subsection (2) provides conditions to be satisfied regarding the statement. Subsection (3) provides the methods for delivery of

a copy of the statement and subsection (4) provides evidential status of a statement under section 101C(3). Subsection (5) provides that there shall be a presumption in a prosecution for an offence until the contrary is shown that the person who made certain requirements under the Act of 2005 is a designated doctor or a designated nurse.

The new section 107C mirrors the corresponding evidential provisions in the Road Traffic Act 2010.

Section 107D – Costs of prosecution by Bureau under Part 10

Subsection (1) provides that the court can order a person who is convicted of an offence to pay to the court a contribution towards the costs and expenses of the Medical Bureau of Road Safety. Subsection (2) provides that payments shall be disposed of in the manner to be prescribed. The new section 107D is the same as the corresponding provision in the Road Traffic Act 2010.

Section 65 – Amendment of section 108 of Act of 2005

This section amends section 108 (Defences) to provide for updating of terminology to substitute “designated doctor or designated nurse” for “designated medical practitioner”. New subsections (1A) and (3A) are inserted to provide a defence for a defendant (who had refused or failed to comply with a requirement in relation to a specimen under Part 10) if he or she satisfy a court that there was a special and substantial reason for doing so. A consequential amendment of subsection (4) expands it to include reference to a specimen of oral fluid. These amendments are the same as the corresponding provisions in the Road Traffic Act 2010.

Section 66 – Amendment of section 109 of Act of 2005

This section amends section 109 (Penalties) to provide that the general penalty provision in section 109 does not apply to section 103(4) because that section contains a separate penalty.

Section 67 – Amendment of section 112 of Act of 2005

This section amends section 112 (Medical fitness for duty) to provide for updating of terminology to substitute “organisation” for “undertaking” and “doctor” for “medical practitioner”.

Section 68 – Amendment of section 122 of Act of 2005

This section amends section 122 (Prosecution of summary offences). Section 122 provides that proceedings for an offence under the Act of 2005 may be brought and prosecuted summarily by the Commission for Railway Regulation. Some of the amendments in the Bill provide for the removal of a role for the Commission under Part 10 so a consequential amendment arises to exclude offences under Part 10 from the scope of section 122.

Section 69 – Schedule of Specified Drugs

This section provides for the insertion of a Schedule 3 to the Act of 2005 for the purposes of section 97(2A) in the Bill. Five specified drugs are listed together with the concentration level (measured as units in whole blood) for each. This Schedule of Specified Drugs and the levels of concentration are the same as those specified under the Road Traffic Act 2010.

Section 70 – Amendment of section 126 of Act of 2005

This section amends section 126 (Disclosure of records) to provide consequential amendments to update section 126 to reference the provisions that are proposed under Part 2 (of the Bill) and any regulations made under that Part and to reference the Regulations of 2020 and the Regulations of 2014.

PART 6**Consequential amendment to Freedom of Information Act 2014**

Section 71 provides for amendment of paragraph (u) in the Schedule 1 to Freedom of Information Act 2014. The existing paragraph (u) relates to records concerning, or arising from, the forensic criminal investigation functions performed by the Medical Bureau of Road Safety under the Road Traffic Acts 1961 to 2024. The consequential amendment expands paragraph (u) to include a reference to the ‘Railway Safety Act 2005’ in respect of any such records in the Bureau arising under the Act of 2005.

Financial Implications

It is not expected that this Bill will give rise to any financial implications for the Exchequer.

An Roinn Iompair;

Iúil, 2026.