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Bill Digest

Railway Safety Bill 2026

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1 October 2026

Bill Digest: Bill No. 82 of 2026

Abstract

The Railway Safety Bill was published on 24 July 2026. The Bill proposes to continue the Railway Accident Investigation Unit established in accordance with Regulation 4 of the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2014 (S.I. No. 258 of 2014) and continue it on an standalone primary statutory footing. It also provides for updating permitted alcohol concentration levels in railway safety workers to align with road traffic legislation as well as introducing new provisions for the testing of concentration levels of specified drugs in safety critical workers. The Bill also intends to repeal the *Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Act 2020* and make various miscellaneous minor amendments to related legislation.

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This L&RS publication may be cited as:

Oireachtas Library & Research Service, 2026. Bill Digest: Bill No. 82 of 2026. Railway Safety Bill 2026

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Executive Summary

- The Railway Safety Bill 2026 (the Bill) was published on 24 July 2026 and is scheduled for Second Stage debate on Thursday 1 October 2026 in Dáil Éireann. The Bill consists of 71 sections divided into six Parts.
- Primarily, the Bill proposes to update statutory limits for intoxicants for safety critical workers to align with current road traffic legislation as well as introduce new provisions for the testing for, and concentration levels of, specified drugs. It also intends to continue the Railway Accident Investigation Unit (RAIU), which was initially established in accordance with Regulation 4 of the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2014 (S.I. No. 258 of 2014) (the 2014 Regulations) by placing it on a standalone primary legislative footing.
- When the *Railway Safety Act* 2005 (the 2005 Act) was enacted, blood alcohol limits for train drivers were the same as those applying to road motorists. Since then, road traffic legislation has been amended to lower statutory alcohol limits for professional drivers, like taxi, bus or HGV drivers. The statutory alcohol limits for safety critical workers in section 97 of the 2005 Act are substantially higher than the lower limits that apply to specified drivers under road traffic legislation.
- The Bill Digest provides a short background to the Bill including a brief historical overview, outlines the relevant legislation and sectoral bodies and what their role is. It examines the principal provisions of the Bill but does not provide an exhaustive examination of each provision. There is no PLS report available, so a section on PLS is not included. A Bill Resource Page is also available which provides links to select media, Government publications, commentary, related legislation and relevant EU law (available internally only).

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Glossary and abbreviations

Table 1 Glossary and abbreviations

Term	Meaning
Bureau	Medical Bureau of Road Safety
CRR	Commission for Railway Regulation
IÉ	Iarnród Éireann
RAIU	Railway Accident Investigation Unit
Select Committee	Select Committee on Transport, Tourism and Sport
2005 Act	*Railway Safety Act 2005*
2020 Act	*Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Act 2020*
2014 Regulations	S.I. No. 258/2014 - European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2014
2015 Regulations	*S.I. No. 249/2015 - European Union (Regulation of Railways) Regulations 2015.*
2020 Regulations	S.I. No. 430/2020 - European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2020

Source: Compiled by the Library & Research Service

Introduction

The Railway Safety Bill 2026 (the Bill) was published on 24 July 2026 and is scheduled for Second Stage debate on Thursday 1 October 2026 in Dáil Éireann. The Bill consists of 71 sections divided into six Parts.

A General Scheme of an earlier version of the Bill titled the Railway Safety (Amendment) Bill 2018 was approved by Government for publication on 22 May 2018.[1] That General Scheme of the Bill was published in May 2018 but the webpage does not appear to be available any longer.[2] The Select Committee on Transport, Tourism and Sport (the 'Select Committee') carried out Pre-Legislative Scrutiny ['PLS'] of this General Scheme on 27 June 2018.[3] Officials from the Department of Transport, Tourism and Sport attended the PLS hearing, with Principal Officer, Maeve Nic Lochlainn, delivering an opening statement to the Select Committee. A PLS report does not appear to have been produced by the Select Committee.

No updated General Scheme was published, but the Bill as initiated contains additional provisions beyond those proposed in the 2018 General Scheme. The 2018 General Scheme according to the press release announcing Government approval, intended to update the statutory limits in relation to alcohol, introduce new provisions for the analysis of the concentration level of cocaine and heroin in railway safety workers and ensure that school bus services provided commercially would be subject to regulatory oversight by the National Transport Authority.

The current published Bill proposes to update statutory limits for intoxicants for safety critical workers and also intends to continue the Railway Accident Investigation Unit (RAIU), which was initially established in accordance with Regulation 4 of the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2014 (S.I. No. 258 of 2014) (the 2014 Regulations) by placing it on a standalone primary legislative footing.

Primarily, the Bill seeks to:

- continue the RAIU as the independent investigation body for railway accidents and incidents on a primary legislative basis
- update permitted alcohol concentration levels in railway safety workers to align with current road traffic legislation as well as introduce new provisions for the analysis of the concentration level of cocaine and heroin in railway safety workers
- repeal the Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Act 2020
- make various miscellaneous minor amendments to related legislation.

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[1] Department of Transport, 'Minister Ross proposes stricter alcohol and drug provisions for train drivers', *Press Release*, 22 May 2018.

[2] Dáil Éireann Debate, 'Rail Network Safety', 12 March 2019.

[3] Select Committee on Transport, Tourism and Sport, 'Transport Committee to carry out pre-legislative scrutiny of the Railway Safety (Amendment) Bill', *Press Release*, 26 June 2018.

This Bill Digest provides a short background to the Bill including a brief historical overview, outlining the relevant legislation and sectoral bodies and what their role is. It then examines the principal provisions of the Bill, including any potential implementation issues. As noted above, there is no PLS report available for the 2018 General Scheme of the Bill nor an updated General Scheme, so the Bill Digest does not include a section on PLS.

Background to the Bill

This section briefly sets out the progress of the Bill since 2018 along with information on the *Railway Safety Act 2005* (the '2005 Act') and the relevant bodies established under the 2005 Act. As noted in the introduction, a General Scheme was published in 2018 and Head 11 of this General Scheme proposed the amendment of section 69 of the 2005 Act to provide that the Minister for Transport could make regulations to extend provisions for accident investigations provided for in Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast) (the recast Directive) to railway organisations and railways to which the recast Directive did not apply (namely light railway (Luas), trams, metro, tourism and heritage railways).[4]

The 2018 version of the Bill was not advanced, and this left a statutory gap ahead of the recast Directive transposition deadline of 31 October 2020 for the RAIU to perform its functions in respect of the railways to which the recast Directive did not apply. Consequently, the *Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Act 2020* (the 2020 Act) was enacted in October 2020 together with the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2020 (S.I. No. 430/2020) (the 2020 Regulations). Together, these measures enabled the RAIU's investigation regime to continue to apply to specified railways falling outside the ordinary application of the recast Directive and the 2020 Regulations.[5]

The Bill intends to continue the Railway Accident Investigation Unit (RAIU), described by RAIU as "the independent railway accident investigation organisation for Ireland," moving it from its secondary statutory footing in regulations to a standalone primary legislative basis within this Bill.[6] As advised in the Regulatory Impact Analysis of the Bill (RIA) a decision was made to provide for the continuance of the RAIU in a new Act rather than replacing section 69 into the 2005 Act as the provisions required would be more detailed and complex.[7] As advised in the RIA, over 20 new Heads were drafted to address the requirements that were flagged in the General Scheme and on 30 September 2025, Government approval was given to include the new heads and change the title of the Bill to the Railway Safety Bill. Part 2 of the Bill now contains 26 sections for the continued operation of the RAIU.[8] The RIA will be explored further in a separate section of the Digest.

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[4] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026 at p.7. The recast Directive only applied to Iarnród Éireann.

[5] This includes light railway (Luas), trams, metro, tourism and heritage railways.

[6] Railway Accident Investigation Unit, 'About Us' (last accessed 3 July 2026).

[7] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026 at p.8.

[8] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026 at p.8.

Railway Safety Act 2005

The *Railway Safety Act 2005* created a regime for the safe operation of the railway network in Ireland, setting out the core duties of persons working on railways. The 2005 Act established several new bodies, including the Railway Incident Investigation Unit, the Railway Safety Commission (now the Commission for Railway Regulation), and the Railway Safety Advisory Council. The Investigation Unit was subsequently renamed the Railway Accident Investigation Unit. An overview of these bodies will be provided in the following section.

When the 2005 Act was enacted, blood alcohol limits for train drivers were the same as those applying to road motorists. Since then, amendments made to road traffic legislation have meant that the statutory alcohol limits applying to professional drivers, like taxi, bus or HGV drivers, have been lowered. The statutory alcohol limits in section 97 of the 2005 Act are substantially higher than the lower limits that apply to specified persons under road traffic legislation. The Bill proposes to reduce the railway thresholds to 20 milligrammes of alcohol per 100 millilitres of blood, 27 milligrammes per 100 millilitres of urine and 9 microgrammes per 100 millilitres of breath.[9] The Bill would align the statutory alcohol concentration thresholds applicable under section 97 of the 2005 Act with the lower thresholds that apply to specified persons under road traffic legislation.

Part 9 of the 2005 Act provides for the implementation of workplace codes of conduct in relation to intoxicants and persons working on railway infrastructure. It includes a series of provisions which must be included in such codes of conduct (outlined further in the following section) including requiring workplace testing of safety critical workers following an incident. Section 97(2), which is contained in Part 10 of the 2005 Act, specifies alcohol concentration thresholds for the purposes of criminal offences involving safety critical workers. Workplace testing under Part 9 is separately governed by railway organisations' codes of conduct and sampling procedures. These concentrations are set out below:

(a) exceed a concentration of 80 milligrammes of alcohol per 100 millilitres of blood,

(*b*) exceed a concentration of 107 milligrammes of alcohol per 100 millilitres of urine, or

(*c*) exceed a concentration of 35 microgrammes of alcohol per 100 millilitres of breath,

Source: Reproduced from section 97(2) of the *Railway Safety Act 2005*

[9] Section 4 of the *Road Traffic Act 2010* (as amended) provides that the blood alcohol limit in Ireland is 50mg of alcohol per 100 ml of blood, however for "specified drivers", a lower limit of 20mg of alcohol per 100ml of blood applies. A "specified driver" includes learner drivers, novice drivers, professional and commercial drivers. This would include train drivers.

As already noted, these blood alcohol levels are far above what is currently allowed for professional road drivers.

Codes of Conduct

Section 87 of the 2005 Act provides for the duties of safety critical workers including:

(a) not to perform a safety critical task while being unfit,

(b) not to make himself or herself available to perform a safety critical task by attending at work while being unfit,

(c) not to do anything that is an offence under section 97 [offences involving intoxicants by persons working on railway property], and

(d) to comply with the railway organisation's code of conduct and sampling procedures.[10]

Section 88 of the 2005 Act requires railway organisations to provide a code of conduct for safety critical workers to observe while at work in relation to intoxicants, including establishing sampling procedures and providing support services to workers including counselling. Section 88(3) of the 2005 Act specifies what the what sampling procedures must provide for including, among others, the means of sampling, the location where a sample may be taken, analysis of a sample by an analysis body, and grievance procedures in relation to sampling. While internal Codes of Conduct do not appear to be publicly available, some information is available in a response to a Freedom of Information request made to Iarnród Éireann (IÉ) regarding its drug and alcohol cutoff limits in accordance with IÉ's Drug & Alcohol testing policy.[11] In IÉ's response it advised that the drug testing cut-off limits in IÉ are as outlined in the European Guidelines for Workplace Drug Testing in Urine[12], which are included in the FOI response. The FOI response from Iarnród Éireann also noted how section 97 of the 2005 Act provides a cut-off concentration for a positive breath alcohol test at 35 microgrammes of alcohol per 100 millilitres of breath (equivalent to 80 milligrammes of alcohol per 100 millilitres of blood).[13]

Railway Accident Investigation Unit

The Railway Safety Act 2005 originally established the Railway Incident Investigation Unit within the Railway Safety Commission. The European Communities (Railway Safety) Regulations 2008 subsequently renamed it the Railway Accident Investigation Unit (RAIU).

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[10] Section 87(1) of the *Railway Safety Act 2005*.

[11] See Iarnród Éireann, 'FOI request IE_FOI_727', 24 November 2023.

[12] See European Workplace Drug Testing Society (EWDTS), 'Guidelines', (accessed 25 September 2026). EWDTS is a professional, non-profit organisation dedicated to advancing quality, consistency, and best practice in workplace drug and alcohol testing across Europe. To access the guidelines on the EWDTS website, it advises to send your request to secretary@ewdts.org.

[13] See Iarnród Éireann, 'FOI request IE_FOI_727', 24 November 2023 at p.3.

Regulation 4 of the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2014 (S.I. No. 258 of 2014), (the 2014 Regulations) then established the RAIU within the Department of Transport, Tourism and Sport and replaced the investigation body previously established under the 2005 Act. The RAIU was subsequently continued under the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2020 (S.I. No. 430/2020) (the 2020 Regulations).

The RAIU is concerned with the investigation of accidents and incidents on:

- the national railway network;
- the DART;
- the LUAS;
- industrial railways;
- heritage railways.[14]

The purpose of an investigation by the RAIU is to improve railway safety. It does this by establishing, as far as possible, the causes of an accident with a view to making safety recommendations to prevent similar accidents in the future. RAIU investigations are focused on railway safety improvement and do not attribute blame or liability in accidents or incidents.[15] The RAIU comprises of trained investigators along with an independent Chief Investigator who is solely responsible for the conduct of investigations and publication of reports concerning railway incidents and accidents.[16]

Commission for Railway Regulation

The Commission for Railway Regulation (the Commission)[17] is an independent regulatory body which reports to the Minister for Transport that, among other things, acts as the National Safety Authority "charged with oversight of safety of heavy and light railway organisations operating in the State and the associated infrastructure."[18] As noted above, in February 2016, the Railway Safety Commission became the Commission for Railway Regulation pursuant to section 4 of the *Public Transport Act 2016* and the Change of Name of Railway Safety Commission to Commission for Railway Regulation (Appointed Day) Order 2016.

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[14] Railway Accident Investigation Unit, 'About Us' (last accessed 3 July 2026).

[15] Railway Accident Investigation Unit, 'About Us' (last accessed 3 July 2026).

[16] Railway Accident Investigation Unit, 'About Us' (last accessed 3 July 2026).

[17] On 29th February 2016, the Railway Safety Commission became the Commission for Railway Regulation following its designation as a regulatory body in EU law under European Union (Regulation of Railways) Regulations 2015 (SI 249 of 2015).

[18] See Commission for Railway Regulation, Who We Are (last accessed 1 July 2026).

The CRR regulates heavy rail which includes Iarnród Éireann - Infrastructure Manager and Northern Ireland Railways Translink, light rail including the LUAS operator and heritage/other which includes Bord na Móna and heritage railways.[19] The CRR's principal functions as provided for under the 2005 Act are to:

- foster and encourage railway safety,
- enforce the legislation relating to railway safety and,
- investigate and report on railway incidents for the purposes of determining compliance with safety management systems and safety targets.[20]

Railway Safety Advisory Council

The Railway Safety Advisory Council (the Council) was established by Part 8 of the 2005 Act and the Commission provides facilities and services to it. The Council has 14 members appointed by the Minister for Transport including, among others, an independent chairperson and several representatives from railway undertakings including one representing heritage railways, at least one person representing the public interest, at least one person from an organisation representing the interests of mobility-impaired people, and at least one person with particular expertise relevant to railway safety.[21]

The Council's function is to consider issues relevant to railway safety and to make recommendations to the Commission or to the Minister, where it considers it necessary. [22] The Commission or the Minister must consider the recommendations made by the Council. Recommendations to the Commission may concern regulations, standards, guidelines and codes of practice in force in relation to railway safety. Recommendations to the Minister may concern railway safety policy and the adequacy of railway safety legislation.

The Commission and the Minister can both consult the Council on railway safety or the effective performance by the Commission of its functions, or his/her functions with respect to railway safety respectively. [23]

Previous related legislation

- *Railway Safety Act 2005*
- *Railway Safety (Reporting and Investigation of Serious Accidents, Accidents and Incidents Involving Certain Railways) Act 2020*

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[19] See Commission for Railway Regulation 'Who We Are & How We Regulate' (last accessed 3 July 2026).

[20] See Commission for Railway Regulation 'Who We Are & How We Regulate' (last accessed 3 July 2026).

[21] See Railway Safety Advisory Council, webpage (accessed 23 September 2026).

[22] See Railway Safety Advisory Council, webpage (accessed 23 September 2026).

[23] See Railway Safety Advisory Council, webpage (accessed 23 September 2026).

- S.I. No. 258/2014 - European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2014.
- S.I. No. 249/2015 - European Union (Regulation of Railways) Regulations 2015.
- Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast)
- S.I. No. 430/2020 - European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2020

Regulatory Impact Analysis (RIA)

The Regulatory Impact Analysis (RIA) for the Railway Safety Bill 2026 was published on 30 July 2026 following publication of the Bill on 24 July 2026.[24] The RIA for the Bill advises that there are two main regulatory proposals within the Bill:

1. Placing the Railway Accident Investigation Unit (RAIU) and its main functions in primary legislation and to provide a standalone statutory basis for the regulation of the investigation of serious accidents, accidents and incidents by the RAIU in relation to specified railway and;
2. Updating the current legislation -the Railway Safety Act 2005, - in particular the provisions in Part 9 and Part 10 of the Act in relation to intoxicants and safety critical workers working on railways for testing, sampling, analysis to align with current testing in traffic legislation as well as the enforcement role of An Garda Síochána under Part 10.[25]

The RIA sets out three policy options as follows:

1. No change option.
2. Amending section 69 of the Railway Safety Act 2005 to provide policies and principles for criteria to enable the Minister for Transport to make regulations to cover the investigation of accidents by Railway Accident Investigation Unit (RAIU) in relation to railways that do not come within the scope of the EU Railway Safety Directive (recast Directive).
3. Introduce primary legislative provisions for the organisation, independence and powers of the RAIU and to provide a statutory framework for the carrying out of investigations of accidents and incidents.[26]

The RIA considers each of these options in turn. In regard to Option 1, the RIA notes that the "No Change option is not an option. It is prudent and futureproofing, to put independent

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[24] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026.

[25] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026 at p.3.

[26] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026 at p.5.

primary legislation in place now rather than having to do so later."[27]Option 2 which proposes amending section 69 of the 2005 Act to allow the Minister for Transport to make regulations to cover the investigation of accidents by Railway Accident Investigation Unit (RAIU) in relation to railways that do not come within the scope of the recast Directive "it was evident that the provisions required would be more detailed and complex than providing for the matter through substitution of section 69 in the Act of 2005."[28] The RIA identifies Option 3 as the preferred option as it "would result in having a statutory structure in place, under primary legislation, for the RAIU under Part 2 of the Bill, to provide for the organisation, independence, powers and accident investigation functions of the RAIU."[29] The RIA states that none of the three options would involve a cost to the exchequer but only Option 3 will "ensure a more streamlined statutory structure for the RAIU."[30]

[27] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026 at p.9.

[28] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026 at p.9.

[29] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026 at p.10.

[30] Department of Transport, 'Regulatory Impact Assessment – Railway Safety Bill 2026', *Press Release*, 30 July 2026 at p.10.

Legislative proposal

The Railway Safety Bill 2026 contains six Parts and 71 Sections. This section provides an overview of the principal provisions of the Bill but does not purport to be an exhaustive examination of each section of the Bill. As noted at the outset, the Bill intends to continue the Railway Accident Investigation Unit initially established in accordance with the 2014 Regulations and enable it to continue its function of investigating railway accidents and incidents relating to any railway. The Bill also provides for the amendment of Part 9 and Part 10 of the 2005 Act in relation to intoxicants and safety critical workers working on railways, the enforcement role of An Garda Síochána under Part 10 of the Act, along with other consequential amendments.

Principal provisions of the Bill

Part 1

Part 1 of the Bill contains **sections 1 and 2**, contain standard legislative provisions which provide for the commencement of the Bill and interpretation of certain terms. Section 1 provides that the Bill once enacted will be commenced by ministerial order(s). Part 2 of the Bill (which provides for the continued operation of the RAIU) together with the *Railway Safety Act 2005* shall be construed together as one Act. Section 2 provides that within the Bill, "Act of 2005" means the *Railway Safety Act 2005* and "Minister" refers to the Minister for Transport.

Part 2

Part 2 of the Bill contains **section 3 to 28** and provides for the continuation of the Railway Accident Investigation Unit (RAIU) on a primary legislative basis. As already highlighted, the RAIU is the independent statutory body that carries out railway accident investigations in the State. Currently, it is governed on a secondary legislative basis through the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2020 (S.I. No. 430/2020) (the 2020 Regulations). Part 2 of the Bill once enacted will place it on a primary legislative footing and together with the 2005 Act will be considered one Act. As indicated earlier, over 20 new Heads were drafted to address the requirements that were flagged in the General Scheme and given Government approval to be included in the Bill as well as change the title of the Bill to the Railway Safety Bill. Part 2 of the Bill contains 26 sections for the operation of the RAIU.

Section 3 of the Bill provides for the interpretation of key terms including "accident", "serious accident" and "safety management system" which appear to remain unchanged from their current definitions. It also notes that any reference in Part 2 to a "railway organisation" does not include a reference to a railway undertaking or an infrastructure manager.

Section 4 of the Bill provides that the Minister must lay every regulation made under Part 2 before each House of the Oireachtas. Section 5 of the Bill restates the provisions that are set

out within Regulation 4 of the 2014 Regulations and provides a statutory basis in primary legislation for the continuation in existence of the RAIU. 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. It includes provision for the mandatory criteria for the independence of the RAIU, 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 of the Bill requires the Minister to make regulations providing for investigations by the RAIU of accidents and incidents relating to railways, heritage railways, rail networks and railway vehicles, including light railways and metros. It also intends to provide the Minister with the power to prescribe what railway is a "specified railway" which these regulations will apply to as well as the circumstances and matters to be considered when an investigation is carried out. As advised in the Explanatory Memorandum to the Bill, section 27 of the Bill provides for the repeal of the 2020 Act, and it is proposed that section 27 and Part 2 of the Bill will commence on the same date along with the prescribing of certain railways to be a "specified railway".[31] It goes on to state that:

- *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.*[32]

Section 7 of the Bill provides for the principles and criteria for investigations by the RAIU that will apply to specified railways. Section 7 mirrors the provisions that apply for the RAIU under the Regulations of 2020 in respect of the IÉ network and which are currently applied to other railways through the Act of 2020 (see footnote 30 below). As noted earlier, the RAIU is not concerned with apportioning blame or liability, and this will continue to be the case under section 7.

Section 8 of the Bill provides for the procedure for the notification and reporting of accidents and incidents to the RAIU and Commission. This mirrors the current provisions under Regulation 7 of the 2020 Regulations. Section 9 of the Bill provides that once a railway body is notified of the commencement of an investigation, it must provide the RAIU with all records

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[31] These will be metro, tram or other light railway system, 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, heritage railway vehicle that runs on the railway system in the State, heritage railway, museum railway or tourist railway that operates on its own network including workshops, vehicles and staff, and any other railway, or person that operates a railway, to which the Regulations of 2020 do not apply. See Explanatory Memorandum to the Bill, 1 July 2026 at p. 3.

[32] Explanatory Memorandum to the Bill, 1 July 2026 at p. 3-4.

and information known and relevant to it, including any further relevant records and information that become known to it.

Section 10 of the Bill provides that the RAIU, where it considers it appropriate in the course of an investigation, may investigate any decision, act or omission of the Commission which the RAIU considers relevant to the investigation, and the Commission must cooperate with the RAIU. Section 11 of the Bill provides for the appointment of investigators for investigations carried out under Part 2 or under the 2020 Regulations. It includes provision for the appointment of an investigator-in-charge and for the engagement of suitably qualified persons where required. Other railways are covered by the 2020 Act. Section 11 restates the provisions in Regulation 6 of the 2020 Regulations and as advised in the Explanatory Memorandum, intends to "replace the existing statutory provisions and apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill."[33] Section 12 of the Bill reiterates the existing provisions already set out in Regulation 10 of the 2020 Regulations which are applicable to the IÉ network, and is also applicable through the Act of 2020, to other railways. It provides that during an investigation, a RAIU investigator must be provided with access to, among others, the site of the accident or incident, to the rolling stock involved, the related infrastructure and control installations and the results of examinations of the train and railway staff involved. Section 12 will apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill.

Section 13 of the Bill provides for the powers of investigators including that they must be independent in carrying out their investigation and will apply to the IÉ network and other specified railways under Part 2 of the Bill. It restates the current provisions in Regulation 11 of the Regulations of 2020 applicable to the IÉ network, which is also applicable through the Act of 2020, to other railways. Section 14 of the Bill intends to replace the existing statutory provisions and apply to the IÉ network and to specified railway under Part 2 of the Bill. Section 14 provides that an investigator may not enter a domestic dwelling without the consent of the occupier or a District Court warrant. Where an investigator is prevented from entering any other premises, place or vehicle in the exercise of his or her powers, a District Court warrant may also be sought. This restates Regulation 12 of the 2020 Regulations which currently applies to the IÉ network and to other railways through the 2020 Act. Section 15 of the Bill will replace the existing statutory provisions under Regulation 13 of the Regulations of 2020 and the Act of 2020 and will apply to both the IÉ network and to specified railway under Part 2 of the Bill. It intends to provide a RAIU investigator with the power to require provision of records as well as the attendance of persons to provide relevant information relating to the investigation. Section 16 of the Bill intends to replace existing provisions in Regulation 14 of the Regulations of 2020 for investigations in relation to the IÉ network and through the Act of 2020, to other railways. Section 16 provides for the offence of obstruction of a RAIU

[33] Explanatory Memorandum to the Bill, 1 July 2026 at p. 5.

investigator and a person guilty of an offence under this section shall be liable to a class A fine, i.e. not to exceed €5,000.[34]

Section 17 of the Bill intends to replace the existing statutory provisions (Regulation 15 of the 2020 Regulations) and will apply to both the IÉ network and to specified railway under Part 2 of the Bill. It provides that a member of An Garda Síochána, accompanying an investigator, can require any person to provide their name and address and if the person refuses or fails to comply or to gives a false or misleading name or address, they will be guilty of an offence and liable to a class A fine. A Garda accompanying an investigator may also arrest without warrant a person who obstructs or impedes an investigator or refuses to comply with a request or requirement of an investigator or who refuses or fails to provide their name and address or gives one that the Garda reasonably believes to be false or misleading. Section 18 of the Bill provides for the prosecution of offences under Part 2 of the Bill and that proceedings for an offence may be prosecuted summarily by the Minister for Transport. It also provides that proceedings for an offence under section 8(4) of the Bill may be prosecuted summarily by the Commission where a railway body does not comply with certain obligations regarding notification and reporting. Section 19 of the Bill intends to replace the existing statutory provisions and apply to both the Iarnród Éireann network and to specified railway under Part 2 of the Bill. It provides for the prosecution of an offence that is committed by a body corporate. Currently, this is provided for in Regulation 17 of the 2020 Regulations in relation to the IÉ network and applied through the Act of 2020 to other railways.

Section 20 of the Bill provides for investigators to be immune from claims in respect of any thing done in good faith and in the course of carrying out investigations into accidents and incidents under Part 2 of the Bill. It replicates existing provisions in Regulation 18 of the 2020 Regulations regarding investigations in relation to the IÉ network and which are applied at present, through the Act of 2020, to other railways. Section 21 of the Bill provides that the Minister may through regulations made under section 6 of the Bill, provide that the Investigation Unit must prepare, publish and communicate a report of each investigation of an accident/incident relating to specified railway and may prescribe procedures for the preparation of an investigation report and for its circulation. It also prohibits the disclosure of draft investigation reports except with the prior consent in writing of the RAIU and if any person contravenes that requirement, they will be guilty of an offence and liable on summary conviction to a class A fine.

Section 22 of the Bill provides that the Commission must take measures to ensure that a safety recommendation issued by the RAIU (pursuant to regulations made under section 6 of the Bill) is taken into consideration, and, where appropriate, acted upon. It also intends to provide that any railway body or other person to whom a safety recommendation has been directed by the RAIU must send a progress report to the Commission on measures taken or planned. Section 23 of the Bill provides that where the RAIU has carried out an investigation

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[34] See section 3 of the *Fines Act 2010*.

relating to a specified railway and it is satisfied there is new evidence available which could materially alter the findings of the investigation and that the purpose of the investigation would be served by re-opening it, it may re-open the investigation. Section 24 of the Bill provides that the Minister may, by regulations made under section 6, provide that the RAIU must 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 of the Bill provides that in any report published by the RAIU copyright remains with the RAIU. The copyrighted material cannot be used for commercial benefit it may be freely used for educational or safety-related purposes. Section 26 contains saver provisions to preserve continuity when Part 2 comes into operation. Among other matters, existing investigators and the Chief Investigator are deemed to have been appointed or nominated under the new provisions, existing remuneration arrangements are preserved and warrants of appointment and search warrants already in force continue to have effect. Section 27 of the Bill provides repeal and transitional provisions for the coming into operation of the Bill once enacted. This includes providing for the repeal of the 2020 Act and when the repeal comes into operation, that the 2020 Regulations will cease to apply to certain railway that were listed in the 2020 Act. These railways will be prescribed as 'specified railway' in regulations to be made under section 6 of the Bill. Section 27 also provides for transitional provisions for continuity for any investigation, report or safety recommendation which has not been completed once the changes are implemented in section 27(1) and (2) of the Bill. Section 28 of the Bill provides for the amendment of section 2 of the 2005 Act by inserting definitions for "Chief Investigator", "Investigation Unit" and "investigator". This will ensure that the definitions and their meaning in Part 2 of the Bill will be the same as in the 2005 Act.

Part 3

Part 3 of the Bill contains **sections 29 to 40** and provides for miscellaneous amendments to the 2005 Act. The majority of this involves substituting updated definitions for terms to ensure consistency across the legislation.[35] Section 30 amends section 10(1)(b) of the 2005 Act so that the Commission's enforcement function extends to other legislation, including regulations made under section 3 of the *European Communities Act 1972*[36], which confers additional functions on the Commission. It also intends to revise the timeframe for the preparation of the Commission's Statement of Strategy from every 3 years to every 5 years.[37] Section 34 of the Bill proposes to repeal section 41 of the 2005 Act which relates to international services as it is obsolete following Brexit. Sections 35 and 36 propose to amend section 42 and section 43

[35] For example, section 29 of the Bill amends section 2 of the 2005 Act and provides for updating of the definitions for terms including 'accident', 'incident', 'serious accident' and 'train'.

[36] Section 30 of the Bill amending section 10(1)(b) of the 2005 Act.

[37] Section 32 of the Bill amending section 29(1) of the 2005 Act.

of the 2005 Act to provide timeframes for the Commission to carry out a two-stage process for safety assessment of new works and new rolling stock respectively.

Part 4

Part 4 of the Bill contains **sections 41 to 44**. Part 4 provides for Part 4 contains sections 41 to 44 and amends Part 9 of the 2005 Act sets out provisions for railway organisations to have codes of conduct for the workplace, for sampling procedures for intoxicants, for the roles of authorised persons and for the analysis of samples.

Section 41 of the Bill provides for the amendment of section 85 through the substitution of expanded definitions for terms such as 'analysis' and 'sample'. The new substituted definition for 'analysis' will include "any operation used in determining the presence (if any) of alcohol or a drug or drugs in a specimen of breath, oral fluid, blood or urine and any operation used in determining the presence (if any) or concentration of a drug or drugs in a specimen of blood or urine, and cognate words shall be construed accordingly". The new substituted definition for 'sample' will include "breath, oral fluid, blood or urine" instead of just the current definition which provides for blood or urine.

Section 42 of the Bill amends section 86 of the 2005 Act by substituting "(subject to subsection (1A), other than a heritage railway)" for the current "(other than a heritage railway)". It also inserts a new subsection 1A after section 86(1) as follows:

- *This Part applies to a heritage railway which operates train services on the railway infrastructure of another railway organisation where such infrastructure is used, or intended to be used, wholly or partly for the carriage of members of the public or freight.*

Section 43 of the Bill provides for the amendment of section 88 of the 2005 Act which deals with codes of conduct in relation to intoxicants. It provides for technical amendments in subsections (1), (2) and (8) of section 88 to update terminology to ensure consistency across railway safety legislation. Section 43 also deletes subsections (4) to (7) of section 88, which currently provide for codes of conduct, sampling procedures and details of support services to be submitted to the Commission and establish procedures where the Commission does not accept them.

Section 43 also proposes to amend subsection (11) to revise the timeframe for end of year reporting by railway organisations to the Commission from 3 months to 1 month and to remove the possibility for the Commission to direct the format of the report. It also provides for amendment of subsection (12) to provide that the Commission must include details of the reports it receives from railway organisations under subsection (11) as a part of its own annual report that it must lay before each House of the Oireachtas pursuant to section 28 of the 2005 Act.

Section 44 of the Bill provides for the amendment of section 89 of the 2005 Act. Section 89 provides for sampling procedures in the workplace for testing safety critical workers for

intoxicants. Section 44 proposes to amend subsection (1) to substitute a sample of "breath, oral fluid, blood or urine" instead of "a sample of blood or urine". The term "intoxicant" is substituted for "drug". It also proposes to remove "or on the request of an inspector who is of the opinion" from paragraph (a) of section 89 of the 2005 Act and to update terminology to substitute "organisation" for "undertaking".

Section 44 also proposes to substitute a new subsection (2) to provide that only a doctor or a nurse, who has been designated by an authorised person 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. It also proposes to amend subsections (4) and (5) by substituting the term "doctor" instead of "medical practitioner" and of the term "intoxicants" instead of "drugs".

Part 5

Part 5 of the Bill contains **sections 45 to 70** and provides for amendments to Part 10 of the 2005 Act. Part 10 sets out criminal offences for persons working on railway property who contravene the requirements under 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. It also provides for 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 for concentration levels of alcohol and for presence of a drug or drugs. Part 10 has not kept pace with subsequent developments in road traffic legislation concerning alcohol and drug testing. The Explanatory Memorandum states that the purpose of Part 5 is to update and expand Part 10 so that the railway intoxicant regime more closely reflects the corresponding provisions of the Road Traffic Act 2010, as amended.[38]

Section 45 of the Bill provides for the amendment of section 93(1) of the 2005 Act which deals with definitions under Part 10. Section 45 proposes to substitute a new expanded definition for "analysis" to include the determination of the concentration of a drug specified in Schedule 3 (Schedule 3 will be inserted by section 69 of the Bill). It proposes to insert new definitions for 'drug' to include all drugs whether legally obtained or otherwise and for a "medical exemption certificate" in line with section 97 of the 2005 Act. It also provides that the definition of "safety critical task" be updated to use the terminology "organisation" instead of "undertaking".

Section 46 of the Bill inserts a new section 93A into the 2005 Act providing that the Minister may by regulation provide for any matter referred to in Part 10 as prescribed or to be prescribed. Section 47 of the Bill provides for the amendment of section 95 of the 2005 Act by inserting 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 for the carriage of the public or freight. It also makes several minor

[38] Explanatory Memorandum to the Bill, 1 July 2026 at p. 11.

amendments and substitutions for updated terms. Section 47 also removes the existing requirement for Commission consent to the appointment of authorised persons and deletes the Commission's existing power to specify the form and particulars of an authorised person's warrant.

Section 48 of the Bill provides for the amendment of section 96 of the 2005 Act which deals with the function of the Medical Bureau of Road Safety (the Bureau) to carry out analysis and reporting in respect of blood or urine specimens taken. Section 48 provides that the Bureau must arrange for the determination of the concentration of alcohol in blood or urine specimens and the determination of the presence (if any) of a drug or drugs in such specimens. It also proposes to insert new subsections 2A and 2B. The new subsection 2A provides that the Bureau can 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. The new subsection 2B provides that equipment or apparatus provided, supplied, approved or tested by the Bureau under Part 2 of the *Road Traffic Act 2010* must 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 2005 Act. This is to ensure alignment with requirements set out under the *Road Traffic Act 2010*.

Section 49 of the Bill amends section 97 of the 2005 Act which provides for offences involving intoxicants by persons working on railway property. Currently section 97 of the 2005 Act 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 their body a concentration of alcohol that exceeds the limits in section 97(2). Section 49 amends the three statutory alcohol concentration thresholds in section 97(2), reducing them to correspond with the lower thresholds applicable to a "specified person" under the Road Traffic Act[39] as illustrated below in Table 2.

[39] As noted earlier in the Digest, this includes 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 learner drivers.

Table 2 Comparison of maximum intoxicant levels in 2005 Act versus the Bill

Limits set out in section 97(2) of the 2005 Act	Limits proposed in the Railway Safety Bill 2026
(a) exceed a concentration of 80 milligrammes of alcohol per 100 millilitres of blood	(a) exceed a concentration of **20** milligrammes of alcohol per 100 millilitres of blood
(*b*) exceed a concentration of 107 milligrammes of alcohol per 100 millilitres of urine, or	(*b*) exceed a concentration of **27** milligrammes of alcohol per 100 millilitres of urine, or
(*c*) exceed a concentration of 35 microgrammes of alcohol per 100 millilitres of breath	(*c*) exceed a concentration of **9** microgrammes of alcohol per 100 millilitres of breath

Source: Compiled by L&RS from 2005 Act and the Bill

Section 49 also proposes to insert four new subsections 2A to 2D, providing for specified drugs as found in the corresponding provisions for specified drugs set out in the *Road Traffic Act 2010*. The new subsection (2A) provides that it is an offence for a safety critical worker to have present in his or her body a quantity of a specified drug equal to or greater than the concentration specified in Schedule 3 to the Act of 2005[40] 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 new subsection (2B) provides a limited medical exemption from the offence in subsection (2A) in respect of the drugs at reference numbers 1 and 2 of Schedule 3. The exemption applies where Δ9-tetrahydrocannabinol has been lawfully prescribed to the person, and the person holds a medical exemption certificate signed by the prescribing doctor. The new 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[41]. The new subsection (2D) provides that section 1(1) of the *Probation of Offenders Act 1907* does not apply to an offence under this section.

Section 50 of the Bill proposes to amend section 98 of the 2005 Act which places an obligation on a safety critical worker to provide a specimen of breath. Primarily section 50 proposes a new subsection (3) 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 oral fluid to test for the presence of drugs as well as a specimen of breath to test for presence of alcohol in

[40] Section 69 of the Bill inserts Schedule 3 into the 2005 Act.

[41] According to section 3 of the *Fines Act 2010*, a Class C fine is one not exceeding €2,500.

the breath (already provided for within current subsection (3)). The specimen must be given by a safety critical worker using the apparatus provided by the Garda and in the manner indicated by the Garda. If testing apparatus is not available at the scene, the safety critical worker must remain at the scene for no longer than an hour until such apparatus becomes available and must then provide the specimen of breath or oral fluid, or both, by using the apparatus provided.

Section 50 also inserts new subsections 3A and 3B after section 98(3) of the 2005 Act. The new proposed subsection 3A provides for procedures in respect of the provision of a specimen of oral fluid including the production for inspection of any medical certificate of exemption in relation to a specified drug. It also provides that the person providing the specimen must remain at the scene (including a vehicle) up to thirty minutes after providing the specimen until the apparatus indicates the presence or absence of drugs in the specimen. The new proposed subsection 3B provides that an authorised person may require a safety critical worker to provide a specimen of breath including accompanying him or her or another authorised person to a place (including a vehicle) at or in the vicinity of the relevant railway infrastructure. Where 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 of not more than one hour until the apparatus becomes available and then must provide the specimen of breath by using the apparatus provided.

Section 50 also proposes to substitute a new subsection 7 into section 98 of the 2005 Act to provide that there is a presumption, in a prosecution of an offence, 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 is an apparatus for the purpose of indicating the presence of drugs in oral fluid.

Section 51 of the Bill proposes to substitute a new section 99 of the 2005 Act. It retains the power of a member of An Garda Síochána to arrest without warrant a person whom the member believes is committing or has committed an offence under section 97 or 98. It also permits a Garda, where necessary using reasonable force, to enter any place, including the curtilage of a dwelling but not the dwelling itself, for the purpose of arresting a person under section 99(1) or section 111(6), or making a requirement under section 98(3).

Section 52 of the Bill proposes to substitute a new section 100 of the 2005 Act which relates to the obligation to provide a specimen following arrest. It proposes to mirror the corresponding provisions under the *Road Traffic Act 2010*.[42] Section 52 provides that a member of An Garda Síochána may, at a Garda station or in a hospital, require a person who has been arrested under section 99 or section 111 to provide specimens of breath to a Garda or to provide specimens of blood or urine to a designated doctor or a designated nurse.

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[42] Explanatory Memorandum to the Bill, 1 July 2026 at p. 15.

It will be an offence if a person refuses or fails 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. 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 1(1) of the *Probation of Offenders Act 1907* does not apply to an offence under section 100.[43]

Section 53 of the Bill provides for the amendment of section 101 of the 2005 Act which provides for the obligation to provide a blood or urine specimen while in hospital. Currently, this requirement is for a safety critical worker (who is admitted or attends at hospital following an accident or incident where a Garda is of the opinion that the worker had consumed an intoxicant) to permit a designated doctor to take a specimen of blood or to provide a specimen of urine. Section 53 proposes to extend this power to a designated nurse and also to insert new subsections (5) to (10) to align section 101 with the powers and procedures for An Garda Siochána under the *Road Traffic Act 2010* for equivalent road traffic offences. This includes that a member of An Garda Síochána, for the purpose of making a requirement, may enter without warrant any hospital where the person is.[44] Section 1(1) of the *Probation of Offenders Act 1907* does not apply to an offence under this section.[45]

Section 54 of the Bill provides for the insertion of a new section 101A into the 2005 Act providing for the obligation to provide a specimen of oral fluid following arrest under section 99 or 111. Section 54 is intended to mirror the corresponding obligation to provide oral fluid specimens following arrest under the *Road Traffic Act 2010* [46] and it will be an offence where a person refuses or fails to comply immediately with a requirement of a member of An Garda Síochána under this section. Section 1(1) of the *Probation of Offenders Act 1907* does not apply to an offence under this section.[47]

Section 55 of the Bill provides for a new section 101B to be inserted into the Act of 2005 to provide for the obligation to provide a blood specimen where suspected of certain offences involving drugs. The new section 101B is intended to mirror the powers and procedures for An Garda Síochána and the roles of a designated doctor or designated nurse that are already set out in the corresponding section in the *Road Traffic Act 2010*. A person who fails to comply or refuses to comply with the requirement to provide a blood specimen by a Garda or designated doctor or nurse will be guilty of an offence. Section 1(1) of the *Probation of Offenders Act 1907* does not apply to an offence under this section.[48]

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[43] This relates to the power of courts to permit conditional release of offenders.

[44] Section 53(e)(7) of the Bill.

[45] This relates to the power of courts to permit conditional release of offenders.

[46] Explanatory Memorandum to the Bill, 1 July 2026 at p. 15.

[47] This relates to the power of courts to permit conditional release of offenders.

[48] This relates to the power of courts to permit conditional release of offenders.

Section 56 of the Bill proposes to insert a new section 101C into the 2005 Act to provide for a requirement for a person to undergo a medical examination at a Garda station or by a designated doctor or designated nurse for the purpose of obtaining evidence that the person was unfit. This section is intended to mirror 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*.[49] It includes the power of a Garda to enter a hospital without a 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.[50]A person who refuses or fails to comply with a requirement will commit an offence and section 1(1) of the *Probation of Offenders Act 1907* does not apply to an offence under this section.[51]

Section 57 of the Bill proposes to substitute a new section 102 into the 2005 Act to provide for the detention of intoxicated persons who are a danger to themselves or others to update it to refer to the "Road Traffic Act 2010" instead of the Road Traffic Act 1994. Section 102 applies to a safety critical worker who is at a Garda Station having been arrested under section 99 or under section 111 of the 2005 Act.

Section 58 of the Bill provides for the amendment of section 103 of the 2005 Act which currently provides for the procedure following provision of breath specimen under section 100. Section 58 provides for the procedure for determining the concentration of alcohol following the provision of 2 specimens of breath and inserts a new subsection (1A) to provide that any regulations made under section 13(1A) of the *Road Traffic Act 2010* must apply to a specimen under the 2005 Act. It also increases the penalties on summary conviction for an offence for non-compliance with section 103 to a Class A fine or to imprisonment for a term not exceeding 3 months, or to both.[52]

Section 59 of the Bill inserts a new section 103A into the 2005 Act to provide for procedures that apply following a specimen of blood taken from a person at the direction of a member of An Garda Síochána in a hospital.[53] This section is intended to mirror the powers and procedures for An Garda Síochána and the roles of the designated doctors and nurses set out in the corresponding section in the *Road Traffic Act 2010*.[54] This includes 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 Bureau and a Garda is required to notify the Bureau as soon as

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[49] Explanatory Memorandum to the Bill, 1 July 2026 at p. 16.

[50] Subsections (5) and (6) of the proposed new section 101C to be inserted into the 2005 Act.

[51] This relates to the power of courts to permit conditional release of offenders.

[52] Section 58(e) of the Bill amends subsection 4 of section 103 of the 2005 Act.

[53] New section 101(5) is inserted by section 53(e)of the Bill which provides that if a person is incapable of complying, the member must direct a designated doctor or designated nurse to take from the person a specimen of his or her blood.

[54] Explanatory Memorandum to the Bill, 1 July 2026 at p. 17.

practicable after the person has given permission. In a prosecution for refusing or failing to give the required permission, it is a defence for the defendant to establish both that there was a special and substantial reason for the refusal or failure and that, as soon as practicable afterwards, he or she complied with the requirement, or offered to comply but was not called upon to do so.

Section 60 of the Bill provides for the amendment of section 104 of the 2005 Act to ensure alignment with the corresponding provisions in the *Road Traffic Act 2010*. Section 104 of the 2005 Act provides for the procedure to be followed relating to specimens taken or provided. Section 60 provides that a designated doctor or a designated nurse after taking a specimen of blood or having been provided with a specimen of urine must divide the specimen into two parts, place each part in a container which they must immediately seal and complete a prescribed form. It also provides that where divided into two parts, a member of An Garda Síochána must offer to the person one of the sealed containers and inform the person that he or she may retain either of the containers as well as setting out the procedure for forwarding a sealed container to the Bureau.

Section 61 of the Bill amends section 105 of the 2005 Act which provides for the procedure at the Bureau regarding specimens. Section 61 provides to expand the existing procedures to provide that the Bureau may determine the concentration of a drug(s) in a specimen forwarded to it from a Garda Síochána station. As advised in the Explanatory Memorandum, this is a "consequential amendment flowing from the proposed introduction of specified drugs in section 97(2A)."[55]

Section 62 of the Bill amends section 106 of the 2005 Act which provides for where a safety critical worker attempts to frustrate their prosecution under section 97 of the 2005 Act. Section 62 also provides for a reference to "an intoxicant" instead of "alcohol", to include both alcohol and drugs.

Section 63 of the Bill makes a number of technical amendments to section 107, including substituting "designated doctor or designated nurse" for "designated medical practitioner".

Section 64 of the Bill provides for the insertion of new section 107A to 107D into the 2005 Act which provide for certain evidential requirements under Chapter 2 of Part 10 of the 2005 Act. These are intended to reflect the corresponding sections around evidential requirements under the *Road Traffic Act 2010*. The new section 107A, among other things, provides for provisions regarding the timing of consumption of an intoxicant by the defendant in relation to evidential requirements. The new section 107B provides that a written statement by a Garda will be sufficient evidence of the facts of a safety critical worker's failure to comply with a Garda's requirements once certain conditions are met including that it is purported to be signed by a Garda member, and a copy of the statement is served on the person in line with required conditions. The new section 107C sets out the evidential status for a written

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[55] Explanatory Memorandum to the Bill, 1 July 2026 at p. 18.

statement by a member of a Garda Síochána in any proceedings against a person for an offence under section 101C (requirement to undergo a medical examination). This includes that it is purported to be signed by a Garda member, and a copy of the statement is served on the person in line with required conditions. In a prosecution for an offence, it will be presumed until the contrary is shown that the person who carried out a medical examination of a person under the relevant requirements in the 2005 Act is a designated doctor or a designated nurse. The new subsection 107D provides that, where a person is convicted of an offence under the Chapter, the court must, unless satisfied that there are special and substantial reasons not to do so, order the person to pay a contribution towards the costs and expenses incurred by the Bureau, subject to the prescribed maximum.

Section 65 of the Bill provides for the amendment of section 108 of the 2005 Act which provides for defences to offences under Part 10. Section 65 provides for the substitution of "designated doctor or designated nurse" where "designated medical practitioner" appears in the section. It also inserts two new subsections into section 108. Subsection 1A provides a defence where the court is satisfied that there was a special and substantial reason for his or her refusal or failure to provide a specimen under section 98. Subsection 3A provides for a defence where the court is satisfied that there was a special and substantial reason for his or her refusal or failure to provide or allow a specimen of blood to be taken.

Section 66 of the Bill provides for the amendment of section 109 of the 2005 Act by the substitution of "section 97(2C)" for "section 103(4)". Section 66 substitutes the reference to section 103(4) in section 109 with a reference to section 97(2C). However, section 58 of the Bill continues to provide a separate penalty for an offence under section 103(4). The effect of section 66 therefore appears to be that section 103(4) would no longer be expressly excluded from the general penalty provision in section 109. This may merit clarification.

Section 67 of the Bill amends section 112 of the 2005 Act to provide for revising of terminology to substitute "organisation" for "undertaking" and "doctor" for "medical practitioner".

Section 68 of the Bill amends section 122 of the 2005 Act by inserting "(other than an offence under Part 10)" after "Proceedings for an offence under this Act". Section 122 of the 2005 Act provides for the prosecution of summary offences, including by the Commission. In the Explanatory Memorandum, it states that since some of the amendments in the Bill provide for the removal of a role for the Commission under Part 10 so a consequential amendment is necessary to exclude offences under Part 10 from the scope of section 122.[56]

Section 69 of the Bill provides for the insertion of a new Schedule 3 into the 2005 Act for the purposes of section 97(2A) in the Bill. It lists five specified drugs together with the permitted

[56] Explanatory Memorandum to the Bill, 1 July 2026 at p. 19.

concentration level (measured as units in whole blood) for each drug. This mirrors the corresponding provisions specified under the *Road Traffic Act 2010*.

Section 70 of the Bill amends section 126 of the 2005 Act which provides for the disclosure of records. Section 70 provides for consequential amendments to update section 126 to include references to the provisions that are proposed under Part 2 (of the Bill) and any regulations made under that Part as well as references to the 2014 Regulations the 2020 Regulations.

Part 6

Part 6 of the Bill contains **section 71** which amends Part 1 of Schedule 1 to the Freedom of Information Act 2014 in relation to the Medical Bureau of Road Safety. The amendment concerns records arising from the Bureau's forensic criminal-investigation functions under the Railway Safety Act 2005 and the Road Traffic Acts 1961 to 2024, including records concerning the analysis of specimens and the approval, supply, testing and maintenance of relevant apparatus and equipment.