
[DRAFT]
RAILWAY ORDER

TRANSPORT (RAILWAY INFRASTRUCTURE) ACTS 2001-2021

**RAILWAY (GLOUNTHAUNE TO MIDLETON TWIN TRACK)
ORDER [2022]**

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PREAMBLE

(Including Reasons and Considerations)

AN BORD PLEANÁLA (hereinafter also referred to as the “Board”) in exercise of the powers conferred on it by section 43 of the Transport (Railway Infrastructure) Act 2001 as amended and substituted including by inter alia the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021) (hereafter also referred to as “the 2001 Act” or “the Principal Act”) and having considered and duly taken into account prior to making a decision on the application the following:

- the application for a Railway Order made on the [INSERT DATE] by Córas Iompair Éireann (hereinafter referred to as the “Applicant”) for a Railway Order authorising railway works between Glounthaune to Midleton,
- the draft Railway Order and all documents that accompanied the application in physical and electronic version including the Environmental Impact Assessment Report submitted under section 37 [and any revised Environmental Impact Assessment Report submitted under section 47D], Appropriate Assessment Screening Report and Natura Impact Statement,
- the consent given by the National Transport Authority to the said application for the Railway Order and to the designation by the Board of the railway as heavy railway,
- any submissions or observations duly made to it in relation to the likely significant effects on the environment of the activity:
 - o under section 40(3) or [41(4)] of the Act of 2001 and not withdrawn,
 - o by an authority or designated body referred to in section 40(1)(c) or (e) of the Act of 2001,
 - o [on foot of a request under section 47D(1) or a notice under section 47D(6) of the Act of 2001.]
- the written and oral submissions made by the observers and the responses by the Applicant,
- [the Applicant’s response, received on the [•], to the Board's request for further information dated the [•],]
- [the report of the Oral Hearing held under section 42 of the Act of 2001 during [•] and the recommendations (if any) contained therein and the written and oral submissions made by the observers and the Applicant at the oral hearing],
- the matters referred to in section 143 of the Planning and Development Act 2000 as amended (as provided for in section 43 of the Act of 2001) including:

(E.U. Level policy)

- EU White Paper on Transport: Roadmap to a single European Transport Area - Towards a competitive and resource efficient transport system

- European Green Deal
- European Sustainability and Smart Mobility Strategy – putting European transport on track for the future (COM/2020/789 final)

(National Level policy)

- Project Ireland 2040 comprising the National Planning Framework – Ireland (Our Plan 2040) and National Development Plan 2021-2030
- National Sustainable Mobility Policy
- Department of Transport: Statement of Strategy 2021-2023
- Strategic Investment Framework for Land Transport
- National Investment Framework for Transport in Ireland (2021)
- Climate Action Plan (CAP) 2021 – Securing Our Future
- The White Paper: Ireland’s Transition to a Low Carbon Energy Future 2015-2030

(Regional Level policy)

- Regional Spatial and Economic Strategy for the Southern Region;
- Cork Metropolitan Area Strategic Plan;
- Cork Metropolitan Area Transport Strategy 2040

(Local Level policy)

- Cork County Development Plan 2022–2028

(Iarnrod Eireann Strategic Plans and policy)

- Iarnrod Eireann Strategy 2027;
- Iarnrod Eireann Cork Area Commuter Rail Programme Strategic Assessment Report (November 2021);
- Iarnrod Eireann 2030 Rail Strategy Review
- the agreements and undertakings between the Applicant and the local authority [Cork County Council]) and the Applicant and various other parties,
- the Applicant's Construction Environmental Management Plan ("CEMP")
- the Scheme Traffic Management Plan ("STMP") which aims to minimise traffic disruption for road users during the construction of railway works, in co-operation with the road authorities, An Garda Síochána, and other stakeholders,
- the likely consequences for proper planning and sustainable development in the area in which it is proposed to carry out the railway works, and for the environment of such works,
- Its reasoned conclusion under section 42B(c), and
- the report of the Inspector, including the examination, analysis and evaluation undertaken therein in relation to Appropriate Assessment and Environmental Impact Assessment.

The Board is satisfied that the information before it was adequate to undertake an Appropriate Assessment and an Environmental Impact Assessment of the subject development.

Appropriate Assessment Screening - Stage 1:

The Board agreed with and adopted the screening assessment and conclusions carried out in the Inspector's Report, (and reports of specialist advisers appointed to assist the Inspector), that the European Sites on which the proposed development, individually or in combination with other plans or projects, has the potential to have a significant effect are as follows: Cork Harbour SPA, Great Island SAC, Ballycotton SPA

Appropriate Assessment - Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the relevant information, submissions and observations on file, any additional information provided prior to the close of the oral hearing, in the form of submissions and responses to submissions, additional information, errata, corrigenda, Briefs of Evidence, etc. and the Inspector's analysis of potential impacts on European Sites.

The Board completed an Appropriate Assessment of the implications of the proposed development for the aforementioned European Sites in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- a) the likely direct and indirect impacts arising from the proposed development of the Railway Order Project individually and in combination with other plans or projects,
- b) the mitigation measures, which are included as part of the current proposal, and
- c) the Conservation Objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of any European Sites, in view of the sites' Conservation Objectives.]

Environmental Impact Assessment:

The Board completed an Environmental Impact Assessment in relation to the proposed development, taking into account and examining:

- a) the nature, scale and location of the proposed development,
- b) the Environmental Impact Assessment Report and associated appendices submitted with the application, the Appropriate Assessment Screening Report and Natura Impact Statement and supporting documentation submitted with the application,
- c) the mitigation measures proposed for the proposed development,

- d) any relevant information, submissions and observations on file,
- e) any additional information provided prior to the close of the oral hearing, in the form of submissions and responses to submissions, additional information, errata, corrigenda, Briefs of Evidence, etc., and
- f) the Inspector's Report (and reports of specialist advisers appointed to assist the Inspector) which is noted and adopted.

The Board agreed with the summary of the results of consultations and information gathered in the course of the Environmental Impact Assessment, and the examination of the information contained in the Environmental Impact Assessment Report associated appendices and the associated documentation submitted by the Applicant, the submissions made in the course of the application pursuant to the Act of 2001, as set out in the Inspector's Report. The Board was satisfied that the Inspector's Report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

Coordinated Assessment:

In carrying out its Environmental Impact Assessment in respect of the application, the Board co-ordinated its assessment with its Appropriate Assessment under Council Directive 92/43/EEC of 21 May 1992 and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009.

Reasoned Conclusion:

[To be prepared by An Bord Pleanála and included in the [X] Schedule to this Order].

In making its reasoned conclusion in accordance with section 42B of the Act of 2001 on the significant effects of the proposed railway works on the environment, taking into account the results of the examination of the information presented in the Environmental Impact Assessment Report, any further information provided by the Applicant under section 41 and where applicable, section 47D of the Act of 2001, and any relevant information received through consultation under section 40, section 41 and, where applicable, section 47D of the Act of 2001 and, where appropriate, its own supplementary examination, and the integration by the Board of its reasoned conclusion into this decision under section 43 of the Act of 2001, the Board has regard inter alia to the following:

- Environmental Impact Assessment Report and associated Appendices;
- Supporting documents;
- Appropriate Assessment (Natura Impact Statement);
- Draft Railway Order, Book of Reference, Schedules, Plans and Drawings;
- Any additional information which may be provided prior to the close of the Oral Hearing in the form of submissions and responses to submissions, additional information errata, corrigenda, Briefs of Evidence, etc.;

- Agreements referred to in this Railway Order and the Schedules thereto;
- The Inspector's Report (and reports of specialist advisers appointed to assist the Inspector); and
- Conditions attached by the Board set out in the Schedules.

After considering the totality of the documentation and evidence as set out above, the Board has made its reasoned conclusion in accordance with section 42B(c) of the Act of 2001 as set out at the [X] Schedule [to be inserted by the Board] hereto.

AND AFTER CONSIDERING the matters referred to in section 43(1) of the Act of 2001 and having taken into account the aforesaid reasoned conclusion under section 42B(c) of the Act of 2001 and being satisfied that that reasoned conclusion remains up-to-date, the Board being of the opinion that the application should be granted and also being of the opinion that the acquisition of the land specified in this Order, and the acquisition of the other rights over land specified in this Order, are necessary for giving effect to this Order,

HEREBY AUTHORISES:

The Applicant – C oras Iompair  ireann– to construct, maintain, improve and operate the railway and the railway works and works specified in this Order or any part thereof, in such manner and subject to such conditions – including conditions regarding monitoring measures, parameters to be monitored and the duration of monitoring, – modifications, restrictions and requirements (and on such other terms) as the Board thinks proper and has specified in this Order,

AND ACCORDINGLY the Board hereby **ORDERS** as follows:

PART I
(PRELIMINARY)

ARTICLE 1

(Citation)

(1) This Order maybe cited as the “Glounthaune to Midleton Twin Track Railway Order 2022”.

ARTICLE 2

(Definitions/Interpretations)

(1) In this Order (save where the context otherwise requires):

“Act of 1919” means the Acquisition of Land (Assessment of Compensation) Act, 1919 as amended and substituted;

“Act of 1961” means the Road Traffic Act 1961, as amended and substituted (No. 24 of 1961);

“Act of 1993” means the Roads Act, 1993, as amended and substituted (No. 14 of 1993);

“Act of 2000” means the Planning and Development Act 2000, as amended and substituted (No. 30 of 2000);

“Act of 2001” means the Transport (Railway Infrastructure) Act 2001 (No. 55 of 2001) as amended and substituted including by inter alia the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021), and is also referred to herein as the “Principal Act”;

“Act of 2006” means the Planning and Development (Strategic Infrastructure) Act 2006 (No. 27 of 2006);

“apparatus” includes any substation, inspection chamber, junction box, booster station, pipe, sewer, drain, duct, tunnel, conduit, wire, cable, fibre, insulator, masts, support structures and such other thing as may be used by an undertaker for or in connection with the provision of a service to the public;

“Applicant” means Córas Iompair Éireann (also referred to as CIÉ) and / or the Railway Undertaking;

“authorised works” means all works described and all works authorised in this Order and in the schedules thereto (also referred to as the “scheduled works”) and includes railway works, works, or any part of them;

“Board” or “the Board” means An Bord Pleanála;

“Book of Reference” means the book of reference to the Plan, submitted to the Board pursuant to Section 37(3) of the Principal Act and certified by the Board as the book of reference for the purpose of this Order and including the schedules thereto;

“construct” includes to build, make, modify, assemble and put together;

“designated body” means an authority designated by the Minister for Transport under section 39A of the Principal Act;

“environmental condition” includes an environmental condition and environmental conditions as defined in the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021) and in the Principal Act;

“EIA Directive” and “Environmental Impact Assessment Directive” means Directive No. 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014;

“Environmental Impact Assessment” includes an environmental impact assessment in relation to proposed railway works and as defined in the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021) and in the Principal Act;

“Environmental Impact Assessment Report” includes an Environmental Impact Assessment Report in relation to proposed railway works and as defined in the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021) and in the Principal Act;

“execute” includes construct, maintain and improve, and cognate words shall be construed accordingly;

“land” has the meaning ascribed to that term under the Land and Conveyancing Law Reform Act 2009 as amended and substituted;

“level crossing” means an at grade intersection between a railway line and a road or passage;

“limits of land to be used temporarily” means the limits so shown and described in the plans;

“limits of deviation” means the limits of deviation for the authorised works set out in [Article 6];

“Local Authority” includes the definition assigned to it by the Act of 1993 and the Local Government Act, 2001 as amended and substituted;

“maintain” includes inspect, monitor, repair, adjust, alter, remove, relocate, reconstruct, renew, replace, strengthen and cognate words shall be construed accordingly;

“mechanical power” means electrical and any other motive power;

“Minister” means the Minister for Transport;

“National Roads Authority” means the authority with responsibility for national roads, established under the Act of 1993 and includes the National Roads Authority operating as

Transport Infrastructure Ireland as provided for in Statutory Instrument No. 297 of 2015, Roads Act 2015 (Operational Name of National Roads Authority) Order 2015;

“occupier” includes a person occupying land under a tenancy for a period of more than one month;

“owner” in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion and includes also a person holding or entitled to the rents and profits of the land under a lease or agreement the unexpired term whereof exceeds three years;

“Plan” or “plans” includes the plan of the proposed railway works together with all documents that accompany the application, including (but not limited to) alignment drawings/plans, structural drawings/plans, utility drawings/plans, property drawings/plans, landscape drawings/plans together with a plan of any proposed commercial development of land adjacent to the proposed railway works submitted to the Board pursuant to section 37(3) of the Principal Act and deposited or to be deposited at the head office of TII pursuant to section 46(a) of the Principal Act;

“Planning Authority” has the meaning assigned to it by the Act of 2000;

“Principal Act” means the Transport (Railway Infrastructure) Act 2001 (No. 55 of 2001) as amended and substituted including by inter alia the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021), and is also referred to herein as the “Act of 2001”;

“public road” means a public road within the meaning of the Act of 1993 and includes any road which may become a public road consequent upon, or during the currency of, this Order;

“railway” means a railway (whether above, on or under the ground) whose construction, maintenance, improvement and operation is authorised by this Railway Order and includes a railway or part of a railway for which railway works are authorised by this Order and includes an existing railway, including the railway previously constructed, maintained, improved and operated;

“railway infrastructure” means any land, buildings, bridges, structures, equipment, systems, masts, cables, level crossing, vehicles, services, environmental mitigation measures or other thing used in connection with, or necessary or incidental to, the movement of passengers or freight by railway;

“Railway Order” or “Order” means an Order made under section 43 of the Principal Act;

“railway organisation” includes a railway undertaking or an infrastructure manager to which the European Union (Railway Safety) Regulations 2020 (S.I. No. 476 of 2020) apply except in the case of sections 39, 45, 46, 47, 48 and 50 of the Railway Safety Act, 2005, as amended, and any other person who operates a railway;

“Railway Undertaking” means C oras Iompair  ireann, the Applicant who made the application for, and was granted, this Railway Order and includes Iarnr od  ireann and or a person or body

with whom Córas Iompair Éireann has made an arrangement pursuant to section 43(5) of the Principal Act;

“railway works” means any works required for the purposes of a railway or any part of a railway, including works ancillary to the purposes aforesaid such as the elimination, closure and upgrade of level crossings, the provision of bridges including road-over-rail bridges, provision of electrical traction infrastructure, environmental mitigation measures, the parking of vehicles by persons who intend to complete their journey by railway, and relocation of utilities, and in this definition “works” includes any act or operation of construction, excavation, tunnelling, demolition, extension, alteration, reinstatement, reconstruction, making good, repair or renewal;

“reasoned conclusion” means a reasoned conclusion by the Board as referred to in the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021) and in the Principal Act and as set out in [**Appendix X, to be inserted by the Board**] to this Railway Order;

“reconstruct” includes to wholly or partially rebuild, modify, restore, replace, alter, reinstate, strengthen, relocate, repair and cognate words shall be construed accordingly;

“rights” includes rights which exist or which the Railway Undertaking is authorised to create by this Order;

“relevant road authority” is a road authority in relation to a road or a proposed road the subject of this Railway Order and in whose functional area the road is located or is proposed to be constructed;

“road” has the meaning assigned to it by the Act of 1993 and includes any bridge, road-over-rail bridge, road-over-rail bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple), cycleway, pavement or footway;

“road authority” means a road authority as defined in the 1993 Act and includes the council of a county, the corporation of a county or other borough and a local authority as defined in the Local Government Act 2001 (as amended) or the national road authority or National Road Authority or Transport Infrastructure Ireland;

“sanitary authority” means a sanitary authority for the purposes of the Local Government (Sanitary Services) Acts 1878 to 2001 as further amended and substituted;

“scheduled works” means the works and plans specified in the schedules to this Order and shall also include all such other works and railway works referred to in this Order and the schedules to this Order including any addendum thereto or any part of them;

“S.I. No.145/2007” is the Railway (Glounthaune to Midleton) Order 2007 which conferred on Coras Iompair Éireann the necessary powers to carry out railway works on the Glounthaune to Midleton Railway line, in the County of Cork.

“substratum of land” means any subsoil or anything beneath the surface of land required (i) for the purposes of the authorised works, or (ii) for any other purposes connected with this Order;

“undertaker” in relation to apparatus, means a person or body with power and authority, independently of the operation of this Order, to locate or relocate the apparatus, or cause it to be located or relocated, as provided for in [Article 19];

“works” includes any act or operation of construction, excavation, tunnelling, demolition, extension, alteration, reinstatement, decommissioning of any equipment, reconstruction, making good, repair or renewal and includes railway works as defined in the Principal Act but also includes where the context so requires or admits other works authorised by this Order including such acts or operations as are included in the meaning assigned to “works” in the definition of “railway works” contained in the Principal Act and, for the avoidance of doubt, includes surveys and investigations and the methods by which such said acts or operations are executed and cognate words shall be construed accordingly; and

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything on the land or in the substratum of land or in the airspace over the land.

(3) Any reference in this Order to a work identified by the number of the work in the First Schedule shall be construed as a reference to the work of that number authorised by this Order.

(4) References in this Order to any points identified by letters, with or without numbers, shall be construed as reference to the points marked on the Plan.

(5) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “approximately” or “thereabouts” or such cognate words; were inserted after each such distance, direction and length, and distances between points on a scheduled work shall be taken to be measured along the scheduled work.

(6) Terms assigned in the Acts defined in Paragraph (1) of this Article and used in this Order have the meanings assigned to them in those Acts unless otherwise herein appears.

ARTICLE 3

(Incorporation of Enactments)

(1) The Regulation of Railways Acts, 1840–1893 and any other Act relating to railways shall apply to the railway works authorised by this Order so far as they are applicable for the purposes of and are not inconsistent with or varied by the provisions of this Order, and the Principal Act together with the Order shall be deemed to be the Special Act for the purposes of those enactments.

ARTICLE 4

(Designation of Railway)

(1) The railway is designated as a heavy railway.

PART II

(RAILWAY WORKS, WORKS AND RELATED PROVISIONS)

ARTICLE 5

(Construction, operation, improvement and maintenance of railway works and works and power to execute works)

(1) Subject to the provisions of this Order, the Railway Undertaking may, on the lines, in the places and according to the levels shown on the Plan (and plans), execute the authorised and the scheduled works or any part thereof, including those works described in the First Schedule and the Plan (and plans) and in all other Schedules referred to in this Railway Order and all other necessary, consequent or ancillary works or things.

(2) In executing the authorised and scheduled works and railway works, the Railway Undertaking may carry out all such necessary and ancillary works including all works described in this Order and in the First Schedule, Plan, Plans and the other Schedules hereto and may lay, maintain and install such number of railway lines, switches and crossings, as it deems necessary or expedient.

(3) Without prejudice to the matters referred to paragraphs (1) and (2) hereof and to the generality of the foregoing, the authorised works include *inter alia*: the upgrade and enhancement of the Glounthaune to Midleton line to a twin track configuration over a total distance of approximately 10 kilometres (km); twin tracking of the single-track sections between Glounthaune and Midleton totalling a distance of approximately 10km; reconfiguration of the operational track layouts, as required; removal of 1No. bridge (OBY08, Ballyadam House overbridge) and widening of bridge deck crossing the Ownenacurra River (UBY11); extinguishment of one level crossing (Ford CCTV XY010) and widening of one level crossing (Water Rock CCTV XY009); provision of sidings/turn back facility at Midleton Station, as required; provision of new cable containment routes from Glounthaune to Midleton to facilitate signalling upgrades and alterations; associated signalling upgrades and alterations; and all associated works (including temporary construction compounds, drainage, retaining walls, boundary treatments).

(4) The railway shall be operated by electrical or any other mechanical or motive power.

ARTICLE 6

(Deviation)

(1) In constructing, maintaining, improving or operating any of the railway works authorised by this Order, the Railway Undertaking may make modifications so far as the Railway Undertaking considers them necessary or expedient but such that the extent of lands referenced to accommodate this Scheme and any such modifications, has been limited to *inter alia*:

(i) deviate horizontally by any distance not exceeding 2.0 metres from the situations shown on the Plan for track alignment;

(ii) deviate vertically by any distance not exceeding 0.5 metres from the situations shown on the Plan for track alignment;

(iii) deviate horizontally by any distance not exceeding 5.0 metres from the situations shown on the Plan for public roads;

(iv) deviate vertically by any distance not exceeding 0.5 metres from the levels shown on the Plan for public roads.

(v) deviate in any direction not exceeding 5.0 metres from the situations shown on the Plan for any brackets, cables, wires, fixtures or other things to a structure

(vi) deviate horizontally by any distance not exceeding 5.0 metres from the situations shown on the Plan for utilities

(2) In constructing, maintaining, improving and executing any of the railway works and works authorised by this Order, the Railway Undertaking may make modifications to allow for innovations in construction methods or technology and may deviate horizontally by 0.5 metres from the positions shown on the plans

(3) In constructing, maintaining, improving and executing any of the railway works and works authorised by this Order, the Railway Undertaking may make modifications to allow for innovations in construction methods or technology and may deviate vertically from the levels shown on plans to any extent not exceeding 1 metre

ARTICLE 7

(Discharge of Water)

(1) Subject to paragraphs (2) and (3), the Railway Undertaking may use, alter the level or the course of, any public watercourse, sewer, drain or treatment plant for the drainage of water in connection with the execution of the railway works and works authorised by this Order and the operation or maintenance of the railway, and for that purpose may make any convenient connections with any such watercourse, sewer or drain and may construct provide and use any underground or overground tanks or pipes or outfalls or culverts to assist in such drainage in connection with the construction, maintenance, improvement or operation of the works and railway and for that purpose may make any convenient connections with any such surface watercourse, sewer or drain.

(2) The Railway Undertaking shall not discharge any water into any public watercourse, sewer, drain or treatment plant except—

(a) with the consent of the sanitary or other authority responsible for that watercourse, sewer or drain, which consent shall not be unreasonably withheld, conditioned or delayed, and

(b) in accordance with such terms and conditions as that authority reasonably imposes.

(3) The Railway Undertaking shall take such steps as are reasonably practicable to ensure that any water discharged into a public watercourse, sewer, drain or treatment plant under the powers conferred on it by this Article is free from soil or polluting or deleterious material.

(4) Should any dispute occur in relation to any provisions of this Article between the Railway Undertaking and the sanitary or other authority it shall be referred to arbitration in accordance with the provisions of Article 22 of this Order.

ARTICLE 8

(Closure of Roads - Temporary)

(1) The Railway Undertaking may, for the purpose of executing the railway works authorised by this Order or for any purpose incidental thereto, from time to time request a road authority by order to close temporarily any one or more of the public roads specified in the Fifth Schedule to traffic and the following provisions shall apply in relation to such a request:

(a) The Railway Undertaking shall give to the road authority not less than twenty-one days prior notice in writing of its requirement to close temporarily each such public road and such notice shall:

(i) Specify the road which is required to be closed temporarily;

(ii) State the period for which, in the reasonable opinion of the Railway Undertaking, it is necessary to close temporarily such road;

(iii) Give particulars of any alternative route or routes if any which the Railway Undertaking believes will be available while such road is closed temporarily;

(iv) Contain a brief description of the works which the Railway Undertaking proposes to carry out while such road is closed temporarily;

(v) State whether the order closing the road is required to be subject to conditions as to whether any and if so what traffic or persons may be allowed use the road and at what times and on what if any conditions.

(2) Where a request is made to a Roads Authority under this Article, the consent, agreement or approval concerned must, if given, be given in writing and is not to be unreasonably withheld or delayed.

ARTICLE 9

(Power to Alter Public Roads)

(1) Subject to the provisions of paragraphs (2) and (3) of this Article the Railway Undertaking may in connection with or for the purpose of railway works in or adjacent to any public road or any other public road required to be altered to facilitate the railway works and in accordance with the deposited Plan and specified in the Fifth Schedule:

- (a) Alter the width of the carriageway of the road by altering the width of any footway, cycle track, verge or other land; or
 - (b) Alter or interfere with the level of any kerb, footway, cycleway, verge or other land or structure; or
 - (c) Realign the road where necessary; or
 - (d) Alter or interfere with a road junction and its approach roads by modifying the layout or form of junction and / or by the provision of any new traffic signals, signage, lining and lighting.
- (2) Before exercising any power under paragraph (1) of this Article, the Railway Undertaking shall obtain the consent of the relevant road authority.
- (3) Where a request is made to a road authority under this Article, the consent, must, if given, be given in writing and is not to be unreasonably withheld or delayed.

ARTICLE 10

(Agreements between the Railway Undertaking and a road authority or other person)

- (1) The Railway Undertaking may, from time to time, enter into and carry into effect and thereafter from time to time alter, renew or vary contracts, agreements or arrangements with a road authority or any other person in relation to:
- (a) Where a bridge carries a public road over or under the railway and for the purposes of maintaining, improving or relaying of the road surface and road lighting; or
 - (b) Laying down, making, paving, metalling or keeping in repair any road and the railway thereon; or
 - (c) Altering the levels of the whole or any part of any road on which the Railway Undertaking is authorised to lay down the railway and the proportion to be paid by them or either of them of the expenses of any such works.

ARTICLE 11

(Strengthening and underpinning of structures or buildings)

- (1) The Railway Undertaking may, in accordance with section 48 of the Principal Act, enter on any land and underpin or otherwise strengthen any house, building or structure affected or likely to be affected by the authorised works or the railway and may do on such land all such other things as are, in the opinion of the Railway Undertaking, ancillary to or reasonably necessary for such purposes.
- (2) Where any house, building, or other structure has been underpinned or strengthened in accordance with section 48 of the Principal Act and this Article, the Railway Undertaking may from time to time thereafter, in accordance with that section and this Article, re-enter on the

land and do such further underpinning or strengthening or other activity reasonably necessary for the purposes aforesaid as the Railway Undertaking deems necessary or expedient.

ARTICLE 12

(Tree Lopping)

(1) The Railway Undertaking may lop, remove or cut any tree, shrub or hedge that obstructs or interferes with any railway works authorised by this Order or the operation of the railway.

(2) With regard to paragraph 1 above, where a tree, shrub or hedge lies on land not owned by the Railway Undertaking and for the purpose of works authorised by this Railway Order, or the operation of the railway, needs to be lopped or cut, the Railway Undertaking shall serve on the owner or occupier of the land or, in the case of a public road, on the road authority charged with the maintenance of such road, on which such tree, shrub or hedge is standing, notice in writing of its intention so to lop or cut, and, after the expiration of 28 days from the date of such service the Railway Undertaking may lop or cut any tree, shrub or hedge if the owner or occupier has not already done so.

(3) Where an occupier or owner of land cuts or lops any tree, shrub or hedge under this Article, the reasonable expense (if any) incurred by him or her in so doing shall be paid to him or her on demand by the Railway Undertaking, and the amount of such expenses shall be recoverable from the Railway Undertaking, in default of agreement as a simple contract debt in any court of competent jurisdiction.

ARTICLE 13

(Period within which the Railway Undertaking is authorised to execute the authorised and scheduled works)

(1) Subject to paragraph (2) and so far as is reasonably practicable, execution of the authorised works shall be substantially completed by the end of the period of 10 years, or such further period as the Board may allow, beginning on the date on which this Order comes into operation pursuant to section 43(4) of the Principal Act.

(2) Paragraph (1) does not apply to any works which are required for safety or maintenance purposes in connection with the operation of the railway.

PART III

(ACQUISITION AND POSSESSION OF LAND AND RIGHTS)

ARTICLE 14

(Power to acquire land)

(1) Subject to the Principal Act, the Railway Undertaking may acquire compulsorily and use all or such part of the lands shown on the Plan and specified in the Second Schedule as the Railway Undertaking may require for the purposes of the execution of the works authorised by this Order and the operation of the railway or for purposes incidental or ancillary thereto.

(2) In relation to any such acquisition of land the provisions of Sections 4 and 8 of the Railways Act, 1851 shall not apply.

ARTICLE 15

(Power to temporarily acquire and occupy land)

(1) Subject to the Principal Act, the Railway Undertaking may enter upon, occupy and take temporary possession of the land shown in the Plan and specified in the Third Schedule or any part of that land, for the purpose of carrying out the authorised works.

(2) In particular, and without prejudice to the generality of paragraph 1:

(a) the Railway Undertaking may—

(i) enter on and take temporary possession of that land for the provision of working sites and access for construction purposes or for purposes in connection with the works authorised by this Order; and

(ii) for those purposes, remove any structures thereon, construct other structures, cut and remove anything growing on that land or part thereof, and generally do all things to and on that land that are required to adapt it for those working sites or that access.

(b) where, in the exercise of the powers conferred on the Railway Undertaking by the Principal Act and this Order, a part of a building has been compulsorily acquired or interfered with for the purpose of carrying out railway works, the Railway Undertaking may enter on, and take temporary possession of, another part of that building with a view to minimising the damage or injury done or likely to be done by the acquisition or removal of, or interference with, that part of the building so acquired or interfered with.

(3) Before giving up possession of land specified in the Third Schedule and subject to any agreement to the contrary with the owners and occupiers of the land, the Railway Undertaking shall remove all temporary works and structures constructed by it on the land and shall restore the land as far as possible to its former state.

(4) The Railway Undertaking shall not be required to acquire any land of which it takes temporary possession pursuant to this Article.

(5) The Railway Undertaking shall pay to the owners and occupiers of land of which it takes temporary possession under this Article compensation for any loss, injury or damage thereby suffered or expenditure thereby incurred as if that loss, injury, damage or expenditure were suffered or incurred in consequence of the exercise by the Railway Undertaking of a power conferred upon it by section 48 of the Principal Act, and the amount of the compensation shall be determined in accordance with that section.

ARTICLE 16

(Extinguishment of private rights including private rights of way and temporary interference with rights)

(1) The Railway Undertaking may extinguish the private rights, including the private rights of way, shown on the Plan and specified in the Fourth Schedule for the purposes of the execution of the authorised works and the maintenance and operation of the railway or for purposes incidental or ancillary to those purposes.

(2) The Railway Undertaking may temporarily interfere with or stop up the private rights, including the private rights of way, specified in the Fourth Schedule of this Order.

ARTICLE 17

(Temporary interference with public rights including public rights of way)

(1) The Railway Undertaking may temporarily interfere with or stop up the public rights, including public rights of way specified in the Fifth Schedule of this Order.

(2) Where a road authority accedes to a request under Article 8 to temporarily close a public road, any public right of way over the said public road shall be deemed to be temporarily interrupted on the close of the said public road.

ARTICLE 18

(Period within which the Railway Undertaking may compulsorily acquire land and interests in land)

(1) The powers conferred on the Railway Undertaking by this Order compulsorily to acquire permanently land or rights over or under land, water or a road and the power conferred by Article 15 to enter upon and take temporary possession of land shall cease at the end of the period specified in section 217(6) of the Act of 2000 beginning on the date on which this Order comes into operation pursuant to Sub-section 43(4) of the Principal Act.

(2) The powers of the Railway Undertaking compulsorily to acquire land or rights over or under land shall, for the purposes of this Article, be deemed to have been exercised if a notice to treat has been served in respect of the land or rights before the end of the period mentioned in paragraph (1).

(3) Notwithstanding paragraph (1), the Railway Undertaking shall be entitled to enter into and remain in temporary possession of land after the end of the period mentioned in paragraph (1).

PART IV
(MISCELLANEOUS AND GENERAL)

ARTICLE 19

(Interference with apparatus)

(1) This Article applies where it appears to the Railway Undertaking, in relation to apparatus in the vicinity of a place in which it proposes to execute authorised works, that —

(a) the functioning of the apparatus will, or is likely to, interfere with the execution of those works or the proper functioning of the railway; or

(b) the execution of the authorised works or the operation of the railway will, or is likely to, interfere with the proper functioning of the apparatus.

(2) The relevant undertaker may and, upon reasonable request by the Railway Undertaking, shall without unreasonable delay do either or both of the following:

(a) remove the apparatus and/or relocate it or other apparatus in substitution for it in such other position or location as may be agreed with the Railway Undertaking;

(b) take such further or other steps or make such further or other provision with the agreement of the Railway Undertaking as secures the apparatus and the authorised works and the proper functioning of each of them respectively from mutual interference or damage.

(3) Subject to paragraph 4, the Railway Undertaking shall pay to the undertaker an amount equal to the cost reasonably incurred by the undertaker in the discharge of its obligations under paragraph 2.

(4) Where an undertaker, in the course of the discharge of obligations under paragraph 2, unnecessarily provides, in substitution for existing apparatus, apparatus that, whether because of its type, construction, design, layout, placement or any other feature, is an improved or superior version of the existing apparatus, the sum payable by the Railway Undertaking under paragraph (3) shall not exceed the cost that would have been reasonably incurred by the undertaker if the substituted apparatus had not been an improved or superior version of the existing apparatus.

(5) An undertaker may permit the Railway Undertaking to carry out or cause to be carried out such portion of the undertaker's obligations under this Article as the undertaker agrees, in accordance with such conditions as are agreed between the Railway Undertaking and the undertaker, but the undertaker is not obliged to enter into any such agreement.

(6) In this Article —

“*apparatus*” includes any substation, inspection chamber, junction box, booster station, pipe, sewer, drain, duct, tunnel, conduit, wire, cable, fibre, insulator, masts, support structures and such other thing as may be used by an undertaker for or in connection with the provision of a service to the public;

“*undertaker*”, means any person or body with power and authority in relation to apparatus to install or relocate such apparatus or cause it to be installed or relocated.

ARTICLE 20

(Interference with roads)

(1) If, in the course of constructing or maintaining the railway, the Agency interferes with any public road, it shall make good all damage done by it to the public road.

ARTICLE 21

(Rights of third parties to open up roads, etc.)

(1) Subject to paragraphs (2) and (3), nothing in this Order takes away or abridges any power lawfully vested in any person to open or break up any road in which a railway is laid or to lay down, repair, alter or remove any apparatus, as defined in Article 19.

(2) No power referred to in paragraph (1) shall be exercised so as to affect the railway or its operation without the prior consent in writing of the Railway Undertaking, which consent shall not be unreasonably withheld or delayed.

(3) A person exercising a power to which paragraph (1) relates shall in all respects comply with any reasonable conditions specified by the Railway Undertaking as necessary for or in connection with the construction, maintenance, operation or protection of the railway.

ARTICLE 22

(Arbitration)

(1) Paragraphs 2 to 4 apply to any dispute arising between the Railway Undertaking and any other party in relation to the execution of the authorised works or the exercise by the Railway Undertaking of the powers granted by this Order.

(2) The Railway Undertaking and the other party shall use their best endeavours to resolve the dispute on mutually acceptable terms.

(3) If, after such period as the Railway Undertaking or the other party considers reasonable, the dispute has not been resolved to the satisfaction of both parties, the following shall apply:

(a) either party may, by 14 days' notice in writing to the other party, require the subject-matter of the dispute to be submitted to a single arbitrator and shall, in that notice, nominate a person to arbitrate upon the subject matter of the dispute;

(b) the party receiving the notice may, within that period of 14 days, by a counter-notice, either-

- (i) accept the arbitrator nominated by the party serving the original notice; or
- (ii) nominate at least 2 alternative persons to act as arbitrator;

(c) if any one of the persons nominated by the parties is acceptable to both parties, the subject-matter of the dispute shall be referred to the arbitrator as soon as may be after that person has indicated his or her willingness to act as arbitrator.

(d) either party may apply to the Chairman for the time being of the Irish Branch of the Chartered Institute of Arbitrators for the appointment of an arbitrator; if –

(i) after service of the notice and counter-notice, the parties fail to agree upon an arbitrator; or

(ii) the person agreed upon to be the arbitrator has failed to indicate, within 14 days of being so requested, his or her willingness to act.

(e) the arbitrator so appointed by the Chairman of the Irish Branch of the Chartered Institute of Arbitrators shall notify the parties in writing of his or her appointment as soon as may be thereafter and shall conduct the arbitration in accordance with the rules of the Irish Branch of that Institute.

(4) The Arbitration Act 2010 shall apply to the arbitration and the decision of the arbitrator in relation to the dispute and all matters connected with it shall be binding on the parties.

ARTICLE 23

(Agreement between the Railway Undertaking and Road Authorities and Others)

(1) The Railway Undertaking may, from time to time, enter into and carry into effect and thereafter from time to time alter, renew or vary contracts, agreements or arrangements with any one or more road authority in relation to —

(a) laying down, making, paving, metalling or keeping in repair any road and the railway thereon; or

(b) altering the levels of the whole or any part of any road in which the Railway Undertaking is authorised to lay down the railway, and the proportion to be paid by them, or either of them, of the expenses of any such works.