



Number 14 of 1993

ROADS ACT 1993

REVISED

Updated to 14 May 2013

This Revised Act is an administrative consolidation of the *Roads Act 1993*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Defence Forces (Second World War Amnesty and Immunity) Act 2013 (12/2013)*, enacted 14 May 2013, and all statutory instruments up to and including *Education (Miscellaneous Provisions) Act 2007 (Commencement) Order 2013 (S.I. No. 166 of 2013)*, made 14 May 2013, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Roads Acts 1993 to 2007: This Act is one of a group of Acts included in this collective citation to be construed together as one (*Roads Act 2007* (34/2007), s. 14(2)). The Acts in the group are:

- *Roads Act 1993* (14/1993)
- *Roads (Amendment) Act 1998* (23/1998), other than s. 7
- *Planning and Development Act 2000* (30/2000), s. 215 and Part XX
- *Local Government Act 2001* (37/2001), ss. 81 and 245
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 51
- *Roads Act 2007* (34/2007), other than ss. 12 and 13

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 2000, may be found in the Legislation Directory at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Planning and Development (Amendment) Act 2010* (30/2010)
- *Road Traffic Act 2010* (25/2010)
- *Public Transport Regulation Act 2009* (37/2009)
- *Dublin Transport Authority Act 2008* (15/2008)
- *Roads Act 2007* (34/2007)
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006)
- *National Monuments (Amendment) Act 2004* (22/2004)
- *Local Government Act 2003* (8/2003)
- *Road Traffic Act 2002* (12/2002)
- *Transport (Railway Infrastructure) Act 2001* (55/2001)
- *Local Government Act 2001* (37/2001)
- *Planning and Development Act 2000* (30/2000)
- *Roads (Amendment) Act 1998* (23/1998)
- *Road Traffic Act 1994* (7/1994)
- *Housing Act 1966* (21/1966)
- *Road Traffic Act 1961* (24/1961)
- *National Monuments Act 1930* (2/1930)

All Acts up to and including *Defence Forces (Second World War Amnesty and Immunity) Act 2013* (12/2013), enacted 14 May 2013, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Roads Act 1993 (Classification of Regional Roads) Order 2012* (S.I. No. 54 of 2012)
- *Roads Act 1993 (Classification of National Roads) Order 2012* (S.I. No. 53 of 2012)
- *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011)
- *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011)
- *Inland Waterways and Waterways Ireland (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 195 of 2011)
- *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011)
- *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010)
- *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008)
- *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007)
- *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006)
- *Roads Act 1993 (Classification of Regional Roads) Order 2006* (S.I. No. 188 of 2006)
- *Road Traffic Act 1994 (Control of Traffic - Exemption Permits) Regulations 2006* (S.I. No. 639 of 2006)
- *Roads Act 1993 (Classification of National Roads) (Gormanston To Dundalk Route and Dundalk Western Bypass) Order 2004* (S.I. No. 18 of 2004)
- *Roads Act 1993 (Classification of Regional Roads) (Redcow To N52 Link Road) Order 2004* (S.I. No. 19 of 2004)
- *Roads Act 1993 (Classification of National Roads) (Fermoy, Rathcormac and Watergrasshill Bypass) Order 2004* (S.I. No. 249 of 2004)
- *Roads Act 1993 (Classification of National Roads) (Kilcock - Kinnegad Route) Order 2003* (S.I. No. 26 of 2003)
- *Roads Regulations 2000* (S.I. No. 543 of 2000)
- *European Communities (Environmental Impact Assessment) (Amendment) Regulations 2000* (S.I. No. 450 of 2000)
- *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999)
- *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1998* (S.I. No. 351 of 1998)
- *Dun Laoghaire Rathdown County Council Bye Laws to Control Skips on Public Roads Made under the Roads Act 1993 Section 72* (S.I. No. 573 of 1998)
- *Roads Act 1993 (Declaration of National Roads) Order 1996* (S.I. No. 347 of 1996)
- *Roads Act 1993 (Declaration of National Roads) Order 1995* (S.I. No. 49 of 1995)

- *Roads Act 1993 (Declaration of Regional Roads) Order 1994* (S.I. No. 400 of 1994)
- *Roads Act 1993 (Declaration of National Roads) Order 1994* (S.I. No. 209 of 1994)
- *Roads Regulations 1994* (S.I. No. 119 of 1994)
- *Roads Act 1993 (Commencement) Order 1994* (S.I. No. 118 of 1994)
- *Roads Act 1993 (Commencement) (No. 2) Order 1994* (S.I. No. 339 of 1994)
- *Roads Act 1993 (Commencement) Order 1993* (S.I. No. 197 of 1993)
- *Roads Act 1993 (Commencement) (No. 2) Order 1993* (S.I. No. 406 of 1993)
- *National Roads Authority (Establishment) Order 1993* (S.I. No. 407 of 1993)

All statutory instruments up to and including *Education (Miscellaneous Provisions) Act 2007 (Commencement) Order 2013* (S.I. No. 166 of 2013), made 14 May 2013, were considered in the preparation of this revision.



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THE NATIONAL ROADS AUTHORITY

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Acquisition of Land (Assessment of Compensation) Act, 1919	1919, c. 57
Companies Acts, 1963 to 1990	
Cork Improvement Act, 1868	1868, c. xxxiii
County Management Acts, 1940 to 1991	
Dublin Corporation Act, 1890	1890, c. ccxlvii
Dublin Transport Authority (Dissolution) Act, 1987	1987, No. 34
Electoral Act, 1923	1923, No. 12
European Assembly Elections Act, 1977	1977, No. 30
European Assembly Elections Act, 1984	1984, No. 6
European Communities Act, 1972	1972, No. 27
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Local Government Act, 1925	1925, No. 5
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Local Government Act, 1953	1953, No. 12
Local Government Act, 1955	1955, No. 9
Local Government (No. 2) Act, 1960	1960, No. 40
Local Government Act, 1991	1991, No. 11
Local Government (Planning and Development) Act, 1963	1963, No. 28
Local Government (Planning and Development) Act, 1976	1976, No. 20
Local Government (Planning and Development) Act, 1982	1982, No. 21
Local Government (Planning and Development) Act, 1990	1990, No. 11
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Local Government (Roads and Motorways) Act, 1974	1974, No. 6

[No. 14.]

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Local Government (Toll Roads) Act, 1979	1979, No. 34
Minimum Notice and Terms of Employment Acts, 1973 to 1991	
Petty Sessions (Ireland) Act, 1851	1851, c. 93
Presidential Elections Act, 1937	1937, No. 32
Public Health (Ireland) Act, 1878	1878, c. 52
Redundancy Payments Acts, 1967 to 1991	
Referendum Act, 1942	1942, No. 8
Road Traffic Act, 1961	1961, No. 24
Road Traffic Acts, 1961 to 1987	
Statutory Instruments Act, 1947	1947, No. 44
Summary Jurisdiction (Ireland) Act, 1851	1851, c. 92
Towns Improvement (Ireland) Act, 1854	1854, c. 103
Unfair Dismissals Acts, 1977 and 1991	
Waterford Corporation Act, 1896	1896, c. cxxv
European Communities (Environmental Impact Assessment) (Motorways) Regulations, 1988	S.I. No. 221 of 1988
European Communities (Environmental Impact Assessment) Regulations, 1989	S.I. No. 349 of 1989
Local Government (Planning and Development) Regulations, 1990	S.I. No. 25 of 1990
Public Bodies Order, 1946	S.R. & O. No. 273 of 1946



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AN ACT TO PROVIDE FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC ROADS, TO ESTABLISH A NATIONAL ROADS AUTHORITY, TO PROVIDE FOR MOTORWAYS, BUSWAYS AND PROTECTED ROADS, TO PROVIDE FOR THE TOLLING OF PUBLIC ROADS AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [26th June, 1993]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

- C1** Application of collectively cited *Roads Acts 1993 to 2007* restricted by *Planning and Development Act 2000* (30/2000), s. 177V(3), as inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011, and amended (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 12(b).

Appropriate assessment.

177V.—...

(3) Notwithstanding any other provision of this Act, or, as appropriate, the Act of 2001, or the Roads Acts 1993 to 2007 [and save as otherwise provided for in sections 177X, 177Y, 177AB and 177AC], a competent authority shall make a Land use plan or give consent for proposed development only after having determined that the Land use plan or proposed development shall not adversely affect the integrity of a European site.

...

- C2** Functions transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3 and sch. 1, subject to transitional provisions in arts. 5-9, in effect as per art. 1(2).

2.— (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3.— The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and
 (b) the statutory instruments specified in Schedule 2,
 are transferred to the Minister for Public Expenditure and Reform.

...

Schedule 1

Part 2

...

1922 to 2011 Enactments

...

Number and Year	Short Title	Provision
(1)	(2)	(3)
...
No. 14 of 1993	Roads Act 1993	Sections 24, 41(3) and 82; Third Schedule, paragraphs 5(2) and 12(2)(e)
...

- C3** Functions transferred and references to “Minister” and “Department of Finance” construed (6.07.2011) by *Ministers and Secretaries (Amendment) Act 2011* (10/2011), ss. 7, 9, 11 and sch. 2 part 1, commenced as per s. 1(2).

Department of Public Expenditure and Reform.

7.— (1) There shall stand established on the appointed day a Department of State to be known, in the Irish language, as an Roinn Caiteachais Phoiblí agus Athchóirithe or, in the English language, as the Department of Public Expenditure and Reform.

(2) The member of the Government who is in charge of the Department of Public Expenditure and Reform—

- (a) shall be known, in the Irish language, as an tAire Caiteachais Phoiblí agus Athchóirithe or, in the English language, as the Minister for Public Expenditure and Reform, and
 (b) is, in this Act, referred to as the “Minister”.

...

Transfer of certain other functions to Minister.

9.— ...

- (3) The functions conferred on the Minister for Finance by or under any of the provisions specified in Part 2 of Schedule 2 are transferred to the Minister.

...

Transfer of administration and business of Department of Finance.

11.— (1) The administration and business in connection with the performance of the functions transferred by sections 8 and 9 are hereby transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any statute or instrument under a statute in so far as they relate to the administration and business transferred by subsection (1) shall, from the appointed day, be construed as references to the Department of Public Expenditure and Reform.

...

SCHEDULE 2

Functions Transferred To Minister

...

PART 1

Functions performable with consent of Minister for Finance

STATUTES

Number and Year	Short Title	Provision
...
No. 14 of 1993	Roads Act 1993	Section 25
...

- C4** Functions transferred and references to "Minister for Community, Equality and Gaeltacht Affairs" and "Department of Community, Equality and Gaeltacht Affairs" construed (1.05.2011) by *Inland Waterways and Waterways Ireland (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 195 of 2011), arts. 2, 3(2) and sch., in effect as per art. 1(2).

2.—(1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of Community, Equality and Gaeltacht Affairs contained in any Act or any instrument made thereunder and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3.—(1) The functions vested in the Minister for Community, Equality and Gaeltacht Affairs by or under the Acts specified in Part 1 of the Schedule and the provisions of the Acts specified in Part 2 of the Schedule in so far as they relate to—

(a) inland waterways,

(a) Waterways Ireland,

(a) supporting and promoting North/South co-operation in relation to inland waterways,

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for Community, Equality and Gaeltacht Affairs contained in any Act or instrument made thereunder and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

...

SCHEDULE

...

PART 2

...

Section 15A(b) of the Roads Act 1993 (No. 14 of 1993)

...

- C5** Functions transferred and references to "Department of the Environment, Heritage and Local Government" and "Minister for the Environment, Heritage and Local Government" construed (1.05.2011) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011), arts. 2, 3 and sch., in effect as per art. 1(2).

2. (1) The administration and business in connection with the exercise, performance or execution of any powers, duties and functions transferred by this Order are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of the Environment, Heritage and Local Government contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The powers, duties and functions vested in the Minister for the Environment, Heritage and Local Government—

(a) by or under any of the Acts mentioned in Part 1 of the Schedule,

...

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for the Environment, Heritage and Local Government contained in any Act or instrument made under such Act and relating to any powers, duties and functions transferred by this Order shall, on and after the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

...

SCHEDULE

Part 1

Enactments, powers, duties and functions by or under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Section 51(3)(b) of the Roads Act 1993 (No. 14 of 1993);

...

- C6** References to “Commissioner” in collectively cited *Roads Acts 1993 to 2007* construed (1.06.2011) by *Road Traffic Act 2010* (25/2010), s. 83(1), S.I. No. 255 of 2011.

Functions of Commissioner of Garda Síochána.

83.— (1) Any reference to the Commissioner in the Road Traffic Acts 1961 to 2010 or the Roads Acts 1993 to 2007 is to be read as a reference to the Commissioner or another member of the Garda Síochána not below the rank of Chief Superintendent authorised by the Commissioner to act or carry out a function or requirement on his or her behalf.

...

- C7** Requirement to consult in exercise of powers under Act provided (1.12.2009) by *Dublin Transport Authority Act 2008* (15/2008), s. 74(5), S.I. No. 458 of 2009.

Relationship between Authority and NRA.

74.— ...

(5) The NRA shall consult with and consider the views of the Authority in exercising its functions under the Act of 1993 in the GDA.

...

- C8** Act included in collective citation and construction (11.07.2007) by *Roads Act 2007* (34/2007), s. 14(2), commenced on enactment.

Short title, collective citation and construction.

14.— ...

(2) The Roads Acts 1993 to 2001, section 215 and Part XX of the Planning and Development Act 2000, section 51 of the Planning and Development (Strategic Infrastructure) Act 2006 and this Act (other than sections 12 and 13) may be cited together as the Roads Acts 1993 to 2007 and are to be read as one.

Acts included or previously included in the collective citation are:

- *Roads Act 2007 (34/2007)*, other than ss. 12 and 13 (11.07.2007) by s. 14(2), commenced on enactment.
- *Planning and Development (Strategic Infrastructure) Act 2006 (27/2006)*, s. 51 (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 14(2), commenced on enactment.
- *Planning and Development Act 2000 (30/2000)*, s. 215 and Part XX (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 14(2), commenced on enactment.
- *Local Government Act 2001 (37/2001)*, ss. 81 and 245 (1.01.2002) by s. 1(3), S.I. No. 588 of 2001.
- *Roads (Amendment) Act 1998 (23/1998)*, other than s. 7 (1.07.1998) by s. 9(2), commenced on enactment.
- *Roads Act 1993 (14/1993)* (1.07.1998) by *Roads (Amendment) Act 1998 (23/1998)*, s. 9(2), commenced on enactment.

- C9** Provision for summary, fixed charge offences under Act made by *Road Traffic Act 1961 (24/1961)*, s. 103 as substituted (31.10.2002) by *Road Traffic Act 2002 (12/2002)*, s. 11, S.I. No. 491 of 2002.

Special provision applying where certain offences are alleged to have been committed.

103.—(1) This section applies to such summary offences under the Road Traffic Acts, 1961 to 2002, and the Roads Act, 1993, as may be declared by the Minister by regulations, made after consultation with the Minister for Justice, Equality and Law Reform, to be fixed charge offences and an offence standing so declared is referred to in this section as a fixed charge offence.

...

- C10** Application of Act restricted by *Planning and Development Act 2000 (30/2000)*, s. 217C(2), as inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006 (27/2006)*, s. 38, S.I. No. 684 of 2006.

Board's powers to make decisions on transferred functions.

217C.— ...

(2) Notwithstanding any provision of the Roads Act 1993 concerning the approval of any scheme or proposed road development, the Board shall, in relation to any of the functions transferred under this Part respecting those matters, have the power to approve the scheme or development or any part thereof, with or without conditions or modifications, or to refuse to approve the scheme or development or any part thereof.

...

- C11** Functions transferred and references to "Minister" construed (1.01.2006) by *Railway Safety Act 2005 (31/2005)*, s. 12 and sch. 2 part 1, commenced as per s. 7 and S.I. No. 841 of 2005.

Transfer of functions.

12.—(1) The administration and business in connection with the exercise, performance or execution of any of the functions transferred by subsection (2) are transferred, on the establishment day, to the Commission.

(2) The functions vested in the Minister by or under—

(a) the provisions of the enactments mentioned in Part 1 of Schedule 2, and

...

are, on the establishment day, transferred to the Commission.

(3) References to the Minister contained in any Act or instrument relating to any functions transferred by subsection (2) shall, on the establishment day, be construed as references to the Commission.

...

Schedule 2

FUNCTIONS TRANSFERRED FROM MINISTER TO COMMISSION

Part 1

Session and Chapter or Number and Year	Short Title	Provisions transferred to Commission
(1)	(2)	(3)
...
No. 14 of 1993	Roads Act 1993	Section 15A(a)

C12 Functions transferred and references to “Minister” construed (1.01.2001) by *Planning and Development Act 2000* (30/2000), ss. 214(1) and 215, S.I. No. 449 of 2000.

Transfer of Minister's functions in relation to compulsory acquisition of land to Board.

214.—(1) The functions conferred on the Minister in relation to the compulsory acquisition of land by a local authority under the following enactments are hereby transferred to, and vested in, the Board and any reference in any relevant provision of those Acts to the Minister, or construed to be a reference to the Minister, shall be deemed to be a reference to the Board except that any powers under those enactments to make regulations or to prescribe any matter shall remain with the Minister:

...

Roads Acts, 1993 and 1998;

...

Transfer of certain Ministerial functions under Roads Acts, 1993 and 1998, to Board.

215.—(1) The functions of the Minister in relation to a scheme or proposed road development under sections 49, 50 and 51 of the Roads Act, 1993, are hereby transferred to and vested in the Board and relevant references in that Act to the Minister shall be construed as references to the Board and any connected references shall be construed accordingly, except that any powers under those sections to make regulations or to prescribe any matter shall remain with the Minister.

(2) The references to the Minister in section 19(7) and paragraphs (a), (c), (e) and (f) of section 20 (1) of the Roads Act, 1993, shall be deemed to be references to the Board.

Editorial Notes:

- E1** Prospective amending provision: certain procedures for such summary offences under collectively cited *Roads Acts 1993 to 2007* as may be declared by the Minister for Transport to be fixed charge offences prescribed by *Road Traffic Act 2010* (25/2010), Pt. 3 (ss. 34 to 49), not commenced as of 14.05.2013, save for s. 48, commenced 25.07.2013, S.I. No. 293 of 2012.
- E2** Collectively cited *Roads Acts 1993 to 2007* included in *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), sch. 2 (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), in effect as per reg. 1(3).

PART I

PRELIMINARY AND GENERAL

Short title. **1.—**This Act may be cited as the Roads Act, 1993.

Interpretation. **2.—(1)** In this Act, except where the context otherwise requires—
 “the Act of 1925” means the Local Government Act, 1925;
 “the Act of 1946” means the Local Government Act, 1946;

“the Act of 1955” means the Local Government Act, 1955;

F1[...]

“the Act of 1974” means the Local Government (Roads and Motorways) Act, 1974;

F1[...]

“the Act of 1979” means the Local Government (Toll Roads) Act, 1979;

F1[...]

F2[‘Act of 2000’ means Planning and Development Act 2000;]

“the Authority” means the National Roads Authority established under *section 16*;

“busway” has the meaning assigned to it by *section 44*;

“busway scheme” means a scheme in respect of a busway made F3[...] under *section 47*;

“the Commissioner” means the Commissioner of the Garda Síochána;

“consent” means consent in writing;

“contravention” includes failure to comply;

“development” has the meaning assigned to it by the Act of 1963;

F2[‘development plan’ has the meaning assigned to it by *section 9(1)* of the Act of 2000;]

“footpath” means a road over which there is a public right of way for pedestrians only, not being a footway;

“footway” means that portion of any road associated with a roadway which is provided primarily for use by pedestrians;

“functions” includes powers and duties and references to the performance of functions includes references to the performance of powers and duties;

F2[‘land’ has the meaning assigned it by the Act of 2000;

‘local authority’ except in *section 73*, means—

(a) a county council, referred to in Part 1 of Schedule 5,

(b) a city council, referred to in Part 2 of Schedule 5,

(c) a borough council, referred to in Chapter 1 of Part 1 of Schedule 6, or

(d) a town council referred to in Chapter 2 of Part 1 of Schedule 6,

to the Local Government Act 2001;]

“local road” means a public road other than a national road or a regional road;

“maintenance” in relation to public roads includes improvement and management;

F2[‘Minister’ means Minister for Transport;]

“motorway” has the meaning assigned to it by *section 43*;

“motorway scheme” means a scheme in respect of a motorway made F3[...] under *section 47*;

“national road” means a public road or a proposed public road which is classified as a national road under *section 10*;

“owner” when used in relation to any thing which is the subject of a hire-purchase or leasing agreement includes the person in possession of that thing under the agreement;

“pedal cycle” and “pedal cyclist” have the meanings respectively assigned to them by the Act of 1961;

F2[‘*planning authority*’ has the meaning assigned to it by the Act of 2000;

‘*planning permission*’ means permission under Part III of the Act of 2000;]

“proposed road development” means any proposed road development in respect of which an environmental impact statement is required to be prepared under *section 50*;

“protected road” has the meaning assigned to it by *section 45*;

“protected road scheme” means a scheme in respect of a protected road made F3[...] under *section 47*;

“public authority” means—

- (a) a Minister of the Government,
- (b) a board or other body established by or under statute,
- (c) a local authority;

“public road” means a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority;

“regional road” means a public road or a proposed public road which is classified as a regional road under *section 10*;

F2[‘*reserved function*’ is to be read in accordance with *section 131 of the Local Government Act 2001*;]

“road” includes—

- (a) any street, lane, footpath, square, court, alley or passage,
- (b) any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple), pavement or footway,
- (c) any weighbridge or other facility for the weighing or inspection of vehicles, toll plaza or other facility for the collection of tolls, service area, emergency telephone, first aid post, culvert, arch, gulley, railing, fence, wall, barrier, guardrail, margin, kerb, lay-by, hard shoulder, island, pedestrian refuge, median, central reserve, channelliser, roundabout, gantry, pole, ramp, bollard, pipe, wire, cable, sign, signal or lighting forming part of the road, and
- (d) any other structure or thing forming part of the road and—
 - (i) necessary for the safety, convenience or amenity of road users or for the construction, maintenance, operation or management of the road or for the protection of the environment, or
 - (ii) prescribed by the Minister;

F2[‘*road authority*’ except in Part V, means a local authority]

“roadway” means that portion of a road which is provided primarily for the use of vehicles;

F4[‘rights’ includes, in relation to a scheme, rights which are existing or which are proposed to be created in the scheme;

‘scheme’ has the meaning assigned to it by section 47(1);

‘substratum of land’ means any subsoil or anything beneath the surface of land required—

(a) for the purposes of a tunnel or tunnelling or anything connected therewith,
or

(b) for any other purpose connected with a scheme;]

F5[‘service area’ means an area beside or in the proximity of a public road where services and facilities for users of the road are provided under a motorway or service area scheme; ‘service area scheme’ means a scheme in respect of a service area made under section 47;]

F2[‘special amenity area order’ means an order confirmed under section 203 of the Act of 2000;]

“State authority” means any authority being a Minister of the Government or the Commissioners of Public Works in Ireland;

“statutory undertaker” has the meaning assigned to it by the Act of 1963;

F2[‘structure’ has the meaning assigned to it by the Act of 2000;]

“superannuation benefits” means pensions, gratuities and other allowances payable on resignation, retirement or death;

“traffic sign” has the meaning assigned to it by section 95 of the Act of 1961.

(2) Except where the context otherwise requires, a reference in any enactment or instrument to a public road, a road or a road authority shall be deemed to be a reference to a public road, a road or a road authority as defined in this Act.

(3) Nothing in this Act affects any existing rule of law in relation to the liability of a road authority for failure to maintain a public road.

(4) The maintenance of a public road includes the provision and maintenance of public lighting.

(5) In this Act a reference to a Part, section or Schedule is to a Part or section of, or Schedule to this Act, unless it is indicated that reference to some other enactment is intended.

(6) In this Act a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(7) In this Act a reference to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any subsequent enactment.

Annotations

Amendments:

- F1** Deleted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.
- F2** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.
- F3** Deleted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

F4 Inserted (1.07.1998) by *Roads (Amendment) Act 1998 (23/1998)*, s. 2(b), commenced on enactment.

F5 Inserted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 11 and sch., commenced on enactment.

Editorial Notes:

E3 Previous affecting provision: definition of "Minister" substituted (1.01.1998) by *Roads (Amendment) Act 1998 (23/1998)*, s. 2(a), commenced on enactment. Definition subsequently substituted as per F-note above.

Commencement. **3.**—This Act shall come into operation on such day or days as may be fixed therefor by any order or orders of the Minister, either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions of this Act.

Annotations

Editorial Notes:

E4 Power pursuant to section exercised (1.01.1995) by *Roads Act 1993 (Commencement) (No. 2) Order 1994 (S.I. No. 399 of 1994)*, reg. 2.

2. The Roads Act, 1993, except insofar as previously commenced, shall come into operation on the 1st day of January, 1995.

E5 Power pursuant to section exercised (1.07.1994) by *Roads Act 1993 (Commencement) Order 1994 (S.I. No. 118 of 1994)*, reg. 2.

2. The following provisions of the Roads Act, 1994 shall come into operation on the 1st day of July, 1994:

(a) section 9, section 40 and sections 43 to 66.

(b) section 4 for the purpose of effecting the repeal of the enactments specified in the First Schedule to this Order.

(c) section 6 for the purpose of effecting the amendment of the enactments specified in the Second Schedule to this Order.

FIRST SCHEDULE

Enactments Repealed

Session and Chapter or Number and Year	Short Title	Extent of Repeal
No. 5 of 1925	Local Government Act, 1925.	Sections 32 and 33.
No. 6 of 1974	Local Government (Roads and Motorways) Act, 1974.	The whole Act.
No. 34 of 1979	Local Government (Toll Roads) Act, 1979.	The whole Act.
No. 34 of 1987	Dublin Transport Authority (Dissolution) Act, 1987.	Section 11.

SECOND SCHEDULE

Minor and Consequential Amendments

Session and Chapter or Number and Year	Short Title	Nature of Amendment

No. 24 of 1946	Local Government Act, 1946.	In section 2, after the definition of "the Act of 1941" there shall be inserted "the expression 'the Authority' has the meaning assigned to it by the Roads Act, 1993 ".
		In section 84 (1), (2) and (3), in each place where the words "road authority" occur there shall be substituted "road authority or the Authority".
		In section 84 (1) (a) for words " section 24 of the Local Government Act, 1925 (No. 5 of 1925)" there shall be substituted "the Roads Act 1993 ".
		In section 84(2) (b) for the words " section 24 of the Local Government Act, 1925 " there shall be substituted "the Roads Act, 1993".

E6 Power pursuant to section exercised (23.12.1993 and 1.01.1994) by *Roads Act 1993 (Commencement) (No. 2) Order 1993* (S.I. No. 406 of 1993), regs. 2 and 3.

2. Section 16, sections 28 to 39, sections 41 and 42 and articles 1 to 4 and 6 to 11 of the Third Schedule of the Roads Act, 1993 shall come into operation on the 23rd day of December, 1993.

3. The following provisions of the Roads Act, 1993 shall come into operation on the 1st day of January, 1994:

- (a) subsection (4) of section 2, sections 17 to 27 and articles 5 and 12 of the Third Schedule,
- (b) section 4 for the purpose of effecting the repeal of the enactments specified in the Schedule to this Order.

E7 Power pursuant to section exercised (1.08.1993 and 1.10.1993) by *Roads Act 1993 (Commencement) Order 1993* (S.I. No. 197 of 1993), regs. 2 and 3.

2. The following provisions of the Roads Act, 1993 shall come into operation on the 1st day of August, 1993:

- (a) section 1, section 2 other than subsection (4), section 3, section 5, sections 7 and 8, subsections (1) to (4) of section 10, sections 11 and 12, subsections (6) to (10) of section 13, section 15, sections 67 to 73, section 75 and sections 77 to 85.
- (b) section 4 for the purpose of effecting the repeal of the enactments specified in the First Schedule to this Order.
- (c) section 6 for the purpose of effecting the amendment of the enactments specified in the Second Schedule to this Order.

3. Section 76 of the Roads Act, 1993 shall come into operation on the 1st day of October, 1993.

Repeals.

4.—(1) The enactments mentioned in the *First Schedule* are hereby repealed to the extent mentioned in the *third column* of that Schedule.

(2) The provisions of this Act shall have effect notwithstanding the provisions of any enactment enacted before the passing of this Act and any such enactment shall stand repealed to the extent that it is inconsistent with any provision of this Act.

Savers.

5.—(1) (a) Notwithstanding *section 4*, orders made under section 2 (1) of the Act of 1974 that were in force immediately before the commencement of *section 10*, shall continue in force and shall be deemed to have been made under *section 10 (1) (a)*.

(b) Notwithstanding *section 4*, orders made under section 2 (2) and (2A) of the Act of 1974 shall continue in force as if motorway or busway schemes in respect of the motorways or busways specified in those orders had been approved by the Minister under *section 49*.

(2) (a) Notwithstanding *section 4*, any scheme approved (with or without modifications) by the Minister under *section 4* of the Act of 1974 shall continue in force and shall be deemed to be a scheme approved under *section 49*.

(b) Notwithstanding *section 4*, any scheme made by a road authority under *section 4* of the Act of 1974 but not approved by the Minister before the repeal of *section 4* of the Act of 1974 by *section 4* of this Act shall be deemed to be a scheme made under *section 47*.

(3) Notwithstanding *section 4*, regulations made under the Act of 1974 shall continue in force and shall be deemed to be regulations made under *section 7*.

Minor and consequential amendments.

6.—Each enactment mentioned in the *Second Schedule* is hereby amended in the manner stated in the *third column* of that Schedule.

Regulations.

7.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed or in relation to any matters referred to in this Act as the subject of regulations or for the purpose of giving full effect to this Act.

(2) Every regulation made under this Act, other than a regulation under *section 10* or *17*, shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(3) Where it is proposed to make regulations under *section 10* or *17*, a draft thereof shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.

Annotations

Editorial Notes:

- E8** Power pursuant to section exercised (28.02.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008).
- E9** Power pursuant to section exercised (1.01.2001) by *Roads Regulations 2000* (S.I. No. 453 of 2000).
- E10** Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

Revocation and amendment of orders and directions.

8.—(1) The Minister may by order revoke or amend any order made by him under any provision of this Act, other than *section 3*.

(2) The Minister or the Authority may by direction revoke or amend any direction given by him or it under this Act.

(3) Orders made under *section 12, 49, 51, 58, 60, 61* or *73* of this Act shall be exempted from the provisions of *section 3 (1)* of the Statutory Instruments Act, 1947.

(4) Where an order referred to in *subsection (3)* has been made, the road authority concerned shall, as soon as may be, give notice thereof to its members.

Annotations**Editorial Notes:**

- E11** Power pursuant to section exercised (23.02.2012) by *Roads Act 1993 (Classification of Regional Roads) Order 2012* (S.I. No. 54 of 2012).
- E12** Power pursuant to section exercised (23.02.2012) by *Roads Act 1993 (Classification of National Roads) Order 2012* (S.I. No. 53 of 2012).
- E13** Previous affecting provision: power pursuant to section exercised (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006); revoked (23.02.2012) by *Roads Act 1993 (Classification of National Roads) Order 2012* (S.I. No. 53 of 2012), reg. 5 and sch. 3.
- E14** Previous affecting provision: power pursuant to section exercised (13.04.2006) by *Roads Act 1993 (Classification of Regional Roads) Order 2006* (S.I. No. 188 of 2006); revoked (23.02.2012) by *Roads Act 1993 (Classification of Regional Roads) Order 2012* (S.I. No. 54 of 2012), reg. 4.
- E15** Previous affecting provision: power pursuant to section exercised (31.03.1995) by *Roads Act 1993 (Declaration of National Roads) Order 1995* (S.I. No. 49 of 1995); revoked (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006), reg. 6 and sch. 4.
- E16** Previous affecting provision: power pursuant to section exercised (1.08.1994) by *Roads Act 1993 (Declaration of National Roads) Order 1994* (S.I. No. 209 of 1994); revoked (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006), reg. 6 and sch. 4.

References to road classifications in previous enactments.

9.—(1) The Minister may by order adapt any enactment or instrument by deleting any reference to a main road, a county road, an urban road, a trunk road or a link road and substituting therefor a reference to a national road, a regional road or a local road as he sees fit.

(2) A reference in any enactment or instrument to a national road shall be deemed to be a reference to a national road as defined in this Act.

PART II

CLASSIFICATION OF ROADS AND ASSIGNMENT OF FUNCTIONS

Classification of national, regional and local roads.

10.—(1) (a) The Minister may by order classify any existing public road or any proposed public road as a national road.

(b) The Minister may by order classify any existing public road or any proposed public road as a regional road.

(c) A public road, other than a national road or a regional road, shall be a local road.

(d) Where a public road has been classified as a national road or a regional road under this subsection and where that road has been realigned or a by-pass has been constructed on it, such realignment or by-pass shall, unless otherwise provided by order of the Minister under this subsection, be a national road or a regional road, as the case may be, and that section of the existing road which remains following the realignment or the construction of the by-pass shall be a local road.

F6[(e) Where a new section or a replacement section of a national or regional road is proposed or has been provided, the new or replacement section is, unless provided by order of the Minister under this subsection, a national or regional road, as the case may be. Any section of the existing

road which remains following the construction of the new or replacement section becomes a local road.]

- (2) (a) The Minister may make regulations—
- (i) prescribing classes of public roads in addition to or in substitution for the classes referred to in *subsection (1)*, and
 - (ii) making provision for the assignment of responsibility for the maintenance and construction of such classes of public roads and for the adaptation for that purpose of any of the provisions of *section 13*
- (b) Regulations under this subsection may provide either generally or in a particular case that a reference in any enactment (including this Act) or instrument to a national road, a regional road or a local road is to be construed as a reference to a public road of a class prescribed in such regulations.
- (3) (a) The Minister (in the case of national roads and regional roads) and a road authority (in the case of local roads) may by order—
- (i) designate particular roads for particular purposes,
 - (ii) divide a particular class of roads into subclasses.
- (b) Where the Authority stands established under *section 16* the Minister shall consult with it before classifying a public road or a proposed public road as a national road under *subsection (1) (a)* or before making an order under *paragraph (a)* of this subsection relating to a national road.
- (4) (a) The Minister shall assign a number or other identifying mark to each national road and regional road.
- (b) A road authority shall assign a number or other identifying mark to each local road in respect of which it has responsibility.
- (5) (a) A road authority shall keep a schedule and map of all public roads in respect of which it has responsibility.
- (b) A road authority shall prepare the schedule and map as soon as practicable after the commencement of this section and shall take all reasonable measures to keep the schedule and map up to date.
- (c) The schedule and map shall be kept at the offices of the road authority and shall be available for inspection during office hours.
- (d) The schedule and map may be kept otherwise than in a legible form provided that the information contained therein is capable of being reproduced in a legible form.
- (e) Articles 85, 86 and 87 of the Public Bodies Order, 1946 are hereby revoked.
- (6) A road authority shall, at the request of the Minister and in such manner as may be specified by him, carry out an inventory of all public roads, or of any class or subclass of public road, in respect of which it has responsibility.

Annotations**Amendments:**

F6 Inserted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Editorial Notes:

- E17** Power pursuant to subs. (1)(b) exercised (23.02.2012) by *Roads Act 1993 (Classification of Regional Roads) Order 2012* (S.I. No. 54 of 2012).
- E18** Power pursuant to subs. (1)(a) and (3)(a) exercised (23.02.2012) by *Roads Act 1993 (Classification of National Roads) Order 2012* (S.I. No. 53 of 2012).
- E19** Previous affecting provision: power pursuant to subs. 1(b) exercised (13.04.2006) by *Roads Act 1993 (Classification of Regional Roads) Order 2006* (S.I. No. 188 of 2006); revoked (23.02.2012) by *Roads Act 1993 (Classification of Regional Roads) Order 2012* (S.I. No. 54 of 2012), reg. 4.
- E20** Previous affecting provision: power pursuant to subs. (1)(a) and (3)(a) exercised (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006); revoked (23.02.2012) by *Roads Act 1993 (Classification of National Roads) Order 2012* (S.I. No. 53 of 2012), reg. 5 and sch. 3.
- E21** Previous affecting provision: power pursuant to section exercised (20.01.2004) by *Roads Act 1993 (Classification of National Roads) (Gormanston To Dundalk Route and Dundalk Western Bypass) Order 2004* (S.I. No. 18 of 2004); revoked (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006), reg. 6 and sch. 4.
- E22** Previous affecting provision: power pursuant to section exercised (28.05.2004) by *Roads Act 1993 (Classification of National Roads) (Fermoy, Rathcormac and Watergrasshill Bypass) Order 2004* (S.I. No. 249 of 2004); revoked (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006), reg. 6 and sch. 4.
- E23** Previous affecting provision: power pursuant to section exercised (20.01.2004) by *Roads Act 1993 (Classification of Regional Roads) (Redcow To N52 Link Road) Order 2004* (S.I. No. 19 of 2004); revoked (13.04.2006) by *Roads Act 1993 (Classification of Regional Roads) Order 2006* (S.I. No. 188 of 2006), reg. 4.
- E24** Previous affecting provision: power pursuant to section exercised (27.01.2003) by *Roads Act 1993 (Classification of National Roads) (Kilcock - Kinnegad Route) Order 2003* (S.I. No. 26 of 2003); revoked (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006), reg. 6 and sch. 4.
- E25** Previous affecting provision: power pursuant to section exercised (29.11.1996) by *Roads Act 1993 (Declaration of National Roads) Order 1996* (S.I. No. 347 of 1996); revoked (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006), reg. 6 and sch. 4.
- E26** Previous affecting provision: power pursuant to section exercised (31.03.1995) by *Roads Act 1993 (Declaration of National Roads) Order 1995* (S.I. No. 49 of 1995); revoked (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006), reg. 6 and sch. 4.
- E27** Previous affecting provision: power pursuant to section exercised (1.01.1995) by *Roads Act 1993 (Declaration of Regional Roads) Order 1994* (S.I. No. 400 of 1994); revoked (13.04.2006) by *Roads Act 1993 (Classification of Regional Roads) Order 2006* (S.I. No. 188 of 2006), reg. 4.
- E28** Previous affecting provision: power pursuant to section exercised (1.08.1994) by *Roads Act 1993 (Declaration of National Roads) Order 1994* (S.I. No. 209 of 1994); revoked (13.04.2006) by *Roads Act 1993 (Classification of National Roads) Order 2006* (S.I. No. 187 of 2006), reg. 5 and sch. 4.

Declaration of public roads.

11.—(1) (a) A road authority may, by order, declare any road over which a public right of way exists to be a public road, and every such road shall be deemed to be a public road and responsibility for its maintenance shall lie on the road authority.

(b) Where a road authority proposes to declare a road to be a public road it shall—

(i) satisfy itself that the road is of general public utility,

(ii) consider the financial implications for the authority of the proposed declaration,

(iii) publish in one or more newspapers circulating in the area where the road which it is proposed to declare to be a public road is located a notice indicating the times at which, the period (which shall be not less than one month) during which and the place where a map showing such road may be inspected and stating that objections or representations may be made in writing to the road authority in relation to such declaration before a specified date (which shall be not less than two weeks after the end of the period for inspection),

(iv) consider any objections or representations made to it under *paragraph (iii)* and not withdrawn.

(2) The consideration of objections or representations and the making of an order under *subsection (1)* shall be reserved functions.

(3) The Minister may prescribe criteria for the declaration of roads to be public roads and a road authority shall comply with any such prescribed criteria when exercising its functions under this section.

(4) Every national road, regional road, motorway, busway and protected road shall be a public road and it shall not be necessary for a road authority to make an order under *subsection (1)* in relation to any such road.

(5) A certificate of a road authority that a road is a public road shall be *prima facie* evidence thereof.

(6) Every road which, immediately before the repeal of an enactment by this Act, was a public road shall be a public road.

(7) Any road constructed or otherwise provided by a road authority after the commencement of this section shall, unless otherwise decided by such road authority, be a public road and it shall not be necessary for the authority to make an order under *subsection (1)* in relation to any such road.

Annotations

Modifications (not altering text):

C13 Application of section extended by *Planning and Development Act 2000* (30/2000), s. 180(2A), as inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 59(c), S.I. No. 477 of 2010.

Taking in charge of estates.

180.— ...

(2A) (a) Notwithstanding subsections (1) or (2), where a development referred to in subsection (1) has not been completed to the satisfaction of the planning authority and either—

(i) enforcement proceedings have been commenced by the planning authority within seven years beginning on the expiration, as respects the permission authorising the development, of the appropriate period, or

(ii) the planning authority considers that enforcement proceedings will not result in the satisfactory completion of the development by the developer,

the authority may in its absolute discretion, at any time after the expiration as respects the permission authorising the development of the appropriate period, where requested by a majority of the owners of the houses in question, initiate the procedures under section 11 of the Roads Act 1993.

(b) In exercising its discretion and initiating procedures under section 11 of the Roads Act 1993, the authority may apply any security given under section 34(4)(g) for the satisfactory completion of the development in question.

...

- C14** Application of section extended (21.01.2002) by *Planning and Development Act 2000* (30/2000), s. 180(2)(a), S.I. No. 599 of 2001, as amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 59, S.I. No. 477 of 2010

Taking in charge of estates.

180.— ...

(2) (a) Notwithstanding *subsection (1)*, where the development [referred to in *subsection (1)*] has not been completed to the satisfaction of the planning authority and enforcement proceedings have not been commenced by the planning authority within seven years beginning on the expiration, as respects the permission authorising the development, of the appropriate period, within the meaning of *section 40* or the period as extended under *section 42*, as the case may be, the authority shall, [where requested by the majority of owners of the houses involved], comply with *section 11* of the Roads Act, 1993, except that *subsection (1)(b)(ii)* of that section shall be disregarded.

(b) In complying with *paragraph (a)*, the authority may apply any security given under *section 34(4)(g)* for the satisfactory completion of the development in question.

...

- C15** References to “road authority” construed (21.01.2002) by *Planning and Development Act 2000* (30/2000), s. 180(5), S.I. No. 599 of 2001.

Taking in charge of estates.

180.— ...

(5) Where a planning authority acts in compliance with this section, references in *section 11* of the Roads Act, 1993, to a road authority shall be deemed to include references to a planning authority.

...

Editorial Notes:

- E29** Particulars for notice required in subs. 1(b)(iii) set out (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994), reg. 5.

Abandonment of public roads.

12.—(1) Save as is provided for in *section 73*, a road authority shall not abandon a public road except in accordance with the provisions of this section.

(2) Where a road authority proposes to abandon a public road it shall—

- (a) publish in one or more newspapers circulating in the area where the public road proposed to be abandoned is located a notice indicating the times at which, the period (which shall be not less than one month) during which and the place where a map showing such public road may be inspected and stating that objections or representations may be made in writing to the road authority in relation to such proposal before a specified date (which shall be not less than two weeks after the end of the period for inspection) and stating that persons making such objections or representations may make a request in writing to state their case at an oral hearing conducted by a person appointed by the road authority for that purpose,
- (b) affix a copy of such notice in a prominent position at each end of the public road proposed to be abandoned and leave it in place for a period or periods which shall in aggregate be not less than fourteen days,
- (c) consider any objections or representations made to it under *paragraph (a)* and not withdrawn,
- (d) if it considers it appropriate, afford an opportunity to persons making objections or representations and who so request in writing to state their case at

- an oral hearing conducted by a person appointed by the road authority and consider the report and any recommendation of the person so appointed.
- (3) (a) A road authority may make an order abandoning the public road specified in the notice published under *subsection (2) (a)*, or a part thereof.
- (b) A road authority shall not make an order under *paragraph (a)* until it has complied with *subsection (2)*.
- (4) (a) An order made under *subsection (3)* relating to a national road or a regional road shall have no effect unless and until the Minister approves the order.
- (b) The Minister may, by order, approve the order with or without modifications or he may refuse to approve the order.
- (c) The Minister shall consult with the Authority before making an order under this subsection relating to a national road.
- (5) (a) A road authority shall no longer be responsible for the maintenance—
- (i) of a local road — from the date on which the order abandoning it is made by the road authority,
- (ii) of a national road or a regional road — from the date on which the Minister approves with or without modifications the order abandoning it.
- (b) The abandonment of a public road shall not affect any public right of way over such road and a road authority shall not do anything to interfere with such right of way save as is provided for in law.
- (6) A road authority shall as soon as may be after a public road has been abandoned publish notice of such abandonment in the newspaper or newspapers in which notice of the proposed abandonment was published under *subsection (2) (a)* and shall notify in writing any person who made written objections or representations to it in relation to such abandonment.
- (7) The consideration of objections or representations and the report and any recommendations of a person appointed under *subsection (2)* and the making of an order under *subsection (3)* shall be reserved functions.
- (8) A person who, without lawful authority, removes, or who defaces or damages a notice erected under *subsection (2) (b)* shall be guilty of an offence.
- (9) Where, before the repeal of section 26 of the Act of 1925 by *section 4*, an application has been made to the Minister under the said section 26 for an order abandoning a public road and such application has not been determined by the Minister or withdrawn, the application shall continue to be dealt with and determined as if the said section 26 had not been repealed.
- (10) (a) The Minister may make regulations for the purposes of this section.
- (b) Regulations under this subsection may, in particular and without prejudice to the generality of *paragraph (a)*, specify criteria for the abandonment of public roads and a road authority shall comply with any such specified criteria when exercising its functions under this section.

Responsibility of road authorities for the maintenance and construction of public roads.

13.—F7[(1) Subject to Part III, the maintenance and construction of all national and regional roads in a county or city is a function of the council of that county or city.

(2) It is the function of a local authority to maintain and construct all local roads—

(a) in the case of a county council — in its administrative area, other than the administrative area of any borough or town referred to in Chapter 2 of Part

1 of Schedule 6 to the Local Government Act 2001 situated within the county of the council, and

(b) in the case of any other local authority — in its administrative area.

(3) The local authorities referred to in subsections (1) and (2) are road authorities for the purposes of the roads referred to in those subsections and shall, subject to Part III and in respect of those roads, perform all the functions assigned to road authorities by or under any enactment (including this Act) or instrument.

(4) The expenses of a county council in respect of its functions under subsection (2) shall be charged on the county of the council exclusive of any borough or town that is situated within the county.]

(5) In the performance of their functions under *subsections (1) and (2)*, a road authority shall consider the needs of all road users.

(6) (a) A person or group of persons may, with the consent of a road authority, carry out maintenance works on a local road.

(b) A consent under *paragraph (a)* may be given by the road authority subject to such conditions, restrictions and requirements as it thinks fit.

(c) Where a road authority gives its consent under *paragraph (a)* and the works have been carried out in a *bona fide* manner and in accordance with every condition, restriction or requirement specified under *paragraph (b)*—

(i) the works shall be deemed to have been carried out by the road authority, and

(ii) the person or group (and each member thereof) who carried out the works shall be indemnified by the road authority against all actions and claims howsoever arising in respect of the works and the carrying out of works.

(d) A road authority may provide materials, plant, equipment and the services of its staff to a person or group carrying out works under this subsection.

(7) A road authority may do all such things as arise out of or are consequential on or are necessary or expedient for the performance of its functions under this Act or otherwise in relation to public roads or are ancillary thereto.

(8) Without prejudice to the generality of *subsection (7)* and save as otherwise provided by law, a road authority may—

(a) provide any amenity, structure or thing for the safety or convenience of road users,

(b) undertake landscaping, planting or any similar activity in the interests of amenity and the environment,

(c) provide artistic features.

(9) Notwithstanding the definition of “road” in *section 2*, nothing in this Act shall be construed as imposing on a road authority any liability, duty or obligation to—

(a) construct or maintain fences or retaining walls adjoining a public road which are the responsibility of any other person and which do not form part of the road, or

(b) construct or maintain any bridges, tunnels, railway crossings or any other structure which by virtue of any enactment are the responsibility of a railway company or other person.

(10) (a) A person who, without lawful authority or the consent of a road authority—

- (i) defaces a public road by writing or by any other means,
- (ii) damages a public road,
- (iii) excavates a public road,
- (iv) (I) places or deposits any material or thing on a public road,
 - (II) permits dung or urine from an animal owned by him or any material or thing which falls from a vehicle owned or used by him, to be left on a public road, or
 - (III) does any other thing,
 such that the material, thing, dung or urine or the doing of such other thing is a hazard or potential hazard to persons using a public road or obstructs or interferes with the safe use of a public road or the maintenance of a public road, shall be guilty of an offence.
- (b) A consent under *paragraph (a)* may be given by the road authority subject to such conditions, restrictions or requirements as it thinks fit and any person who fails to comply with such conditions, restrictions or requirements shall be guilty of an offence.
- (c) Where a person does anything in contravention of *paragraph (a)*, a road authority may remove any defacement, repair any damage, fill in any excavation, remove any material, thing, dung or urine or remove or reduce any hazard, potential hazard, obstruction or interference and may recover from such person, as a simple contract debt in any court of competent jurisdiction, any costs reasonably incurred by it.

Annotations**Amendments:**

- F7** Substituted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 6, commenced on enactment.

Agreements and arrangements between road authorities.

- 14.—(1)** (a) Whenever it appears to the Authority that an agreement under section 59 of the Act of 1955 ought to be made between road authorities for the purpose of any of the functions of those authorities relating to national roads the Authority may request the road authorities to enter into an agreement in accordance with such terms and conditions as the Authority may specify.
- (b) Where any road authority concerned refuses or fails to comply with a request under *paragraph (a)*, the Authority may, after affording an opportunity to the road authorities to make representations to it in writing and considering any representations made, direct them to enter into an agreement in accordance with such terms and conditions as it may specify and the road authorities shall comply with any direction given by the Authority.
- (c) An agreement entered into under this subsection shall not be revoked save with the consent of the Authority.
- F8** (d) The Authority may request the road authorities which have entered into an agreement under this subsection to amend it in accordance with such terms and conditions as the Authority may specify or revoke the agreement.
- (e) Where any road authority concerned refuses or fails to comply with a request under *paragraph (d)*, the Authority may, after affording an opportunity to the road authorities to make representations to it in writing and considering any representations made, direct them to amend the agreement in accordance

with such terms and conditions as it may specify, or to revoke it. The road authorities shall comply with any such direction given by the Authority.]

(2) An agreement under section 59 of the Act of 1955 which provides for the exercise or performance of any function by one road authority for another road authority may contain terms as to—

- (a) the vesting of the function in the first-named authority to such extent and for such period as may be specified in the agreement, and
- (b) the making of payments or the transfer of financial responsibility,

and may provide for an area of charge other than the area of charge specified in section 10 of the Act of 1946.

(3) (a) Two or more road authorities may make arrangements for the joint discharge of any of their functions.

(b) Whenever it appears to the Authority that arrangements should be made by two or more road authorities for the joint discharge of any of their functions relating to national roads the Authority may request the road authorities to enter into arrangements in accordance with such terms and conditions as the Authority may specify.

(c) Where any road authority concerned refuses or fails to comply with a request under *paragraph (b)*, the Authority may, after affording an opportunity to the road authorities to make representations to it in writing and considering any representations made, direct them to enter into arrangements in accordance with such terms and conditions as it may specify and the road authorities shall comply with any direction given by the Authority.

(d) An arrangement entered into under *paragraph (b)* or *(c)* shall not be revoked save with the consent of the Authority.

(4) An agreement under section 59 of the Act of 1955 or arrangements under *subsection (3)* may relate to all or part of the area of a road authority.

(5) (a) Whenever it appears to the Minister that an agreement under section 59 of the Act of 1955 ought to be made between road authorities for the purpose of any of their functions relating to public roads (other than national roads) he may, after affording an opportunity to the authorities concerned to make representations to him in writing and considering any representations made, direct them to enter into an agreement.

(b) The Minister may direct that any such agreement shall contain such terms as he may specify and the authorities concerned shall comply with any direction given by the Minister.

(c) An agreement entered into under this subsection shall not be revoked save with the consent of the Minister.

(6) (a) Whenever it appears to the Minister that arrangements should be made by two or more road authorities for the joint discharge of any of their functions relating to public roads (other than national roads) he may, after affording an opportunity to the authorities concerned to make representations to him in writing and considering any representations made, direct that they make such arrangements as he may specify.

(b) The Minister may direct that any such arrangements shall contain such terms as he may specify and the authorities concerned shall comply with any direction given by the Minister.

(c) Any arrangements entered into under this subsection shall not be revoked save with the consent of the Minister.

(7) Any existing agreement in relation to public roads made by road authorities under section 59 of the Act of 1955 shall cease to have force or effect following the expiry of the period of one year from the commencement of this section unless within that period it is continued in force by the said road authorities with, in the case of a national road, the approval of the Authority.

(8) (a) Where an agreement under section 59 of the Act of 1955 is made after the commencement of this section or where arrangements are made under this section and where such agreement or arrangements relate to national roads, such agreement or arrangements shall have no force or effect until approved (with or without modifications) by the Authority.

(b) *Paragraph (a)* shall not apply to an agreement or arrangements made following a direction by the Authority under *subsection (1) or (3)*.

(9) The Authority may, in relation to national roads, enter into an agreement under section 59 of the Act of 1955 or into arrangements under *subsection (3)* as if it were a road authority and the provisions of *subsection (8) (a)* shall not apply to such agreement or arrangements.

(10) The Authority and every road authority shall carry out any agreement or arrangements to which this section relates and to which it is a party in accordance with the terms thereof.

(11) It shall be the duty of a road authority which is a party to an agreement under section 59 of the Act of 1955 relating to public roads (including an existing agreement continued in force under *subsection (7)*) or arrangements under this section to furnish to the Minister a copy of such agreement or arrangements.

Annotations

Amendments:

F8 Inserted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 11 and sch., commenced on enactment.

Modifications (not altering text):

C16 Words in section construed (1.01.2002) by *Local Government Act 2001 (37/2001)*, s. 88(2), S.I. No. 588 of 2001.

Savers (Part 10).

88.— ...

(2) Without prejudice to section 20 of the Interpretation Act, 1937, references in section 10 of the Fire Services Act, 1981, section 14 of the Roads Act, 1993, section 2 of the Building Control Act, 1990, and section 5 of the Local Government Act, 1998, to section 59 of the Local Government Act, 1955, shall be read as references to section 85 of this Act.

Power of Minister to issue directions and guidelines to road authorities.

15.—(1) The Minister may give a direction in writing to a road authority in relation to any of the functions assigned to it by or under any enactment (including this Act) relating to the maintenance or construction of public roads and the road authority shall comply with such direction.

(2) The Minister shall lay a copy of any direction given by him under *subsection (1)* before each House of the Oireachtas.

(3) The Minister may give policy or other guidelines to road authorities in relation to any of the functions assigned to them by or under any enactment (including this Act) relating to the maintenance or construction of public roads and the authorities shall have regard to the guidelines when performing such functions.

(4) The Minister shall lay a copy of any guidelines given by him under *subsection (3)* before each House of the Oireachtas.

F9 [Requirements as regards railways, canals, etc.]

15A.—A road authority shall not construct or reconstruct a bridge or viaduct over, or a tunnel under—

(a) a railway, save with the consent of the Minister for Public Enterprise, or

(b) any inland waterway within the meaning of the Minister for Arts, Heritage, Gaeltacht and the Islands (Powers and Functions) Act, 1998, or any navigable water, save with the consent of the Minister for Arts, Heritage, Gaeltacht and the Islands.]

Annotations

Amendments:

F9 Inserted (1.01.2002) by *Local Government Act 2001 (37/2001)*, s. 245, S.I. No. 588 of 2001.

Modifications (not altering text):

C17 Application of section restricted (10.04.2003) by *Local Government Act 2003 (8/2003)*, s. 2(3), commenced on enactment.

Application of certain provisions.

2.— ...

(3) Section 15A (inserted by the Principal Act) of the Roads Act 1993 shall not apply to the construction of a bridge pursuant to a bridge order referred to in subsection (1) of this section.

PART III

THE NATIONAL ROADS AUTHORITY

Establishment of National Roads Authority.

16.—(1) There shall be a body to be known as An tÚdarás um Bóithre Náisiúnta, or, in the English language, the National Roads Authority to perform the functions assigned to it by or under this Act.

(2) The Authority shall stand established on such day as the Minister shall by order appoint.

Annotations

Editorial Notes:

E30 Power pursuant to section exercised (23.12.1993) by *National Roads Authority (Establishment) Order 1993* (S.I. No. 407 of 1993).

2. The 23rd day of December, 1993 is hereby appointed as the day upon which the National Roads Authority shall stand established.

Functions generally of the Authority.

17.—(1) Subject to the following provisions of this Part and, in particular, to such directions and guidelines as may be given by the Minister under *section 41*, it shall be the general duty of the Authority to secure the provision of a safe and efficient network of national roads and for that purpose it shall have—

(a) overall responsibility for the planning and supervision of works for the construction and maintenance of national roads, and

(b) such other functions in relation to the construction or maintenance of national roads as are assigned to it by or under this Act.

(2) In the performance of its functions under *subsection (1)*, the Authority shall consider the needs of all road users.

(3) The Minister may, by regulations, assign to the Authority such additional functions in relation to the construction or maintenance of national roads as from time to time he considers appropriate.

(4) The Minister may make regulations providing that any function relating to national roads conferred on him or on a road authority under any enactment (including this Act), or on the Commissioner under the Road Traffic Acts, 1961 to 1987, shall, where the Minister is satisfied that the function could be more effectively performed by the Authority, in lieu of being performed by him or by that authority or by the Commissioner, be performed by the Authority with effect from a date specified in the regulations.

(5) Whenever regulations under *subsection (4)* are in force in relation to a particular function, a reference in any enactment concerned to the Minister, to the road authority concerned or to the Commissioner shall be construed as including a reference to the Authority and the function to which the regulations relate shall be a function of the Authority.

(6) Regulations under *subsection (3)* or *(4)* may contain such incidental, supplementary, consequential and transitional provisions as appear to the Minister to be necessary for the purpose or in consequence of, or to give full effect to, the regulations.

Annotations

Modifications (not altering text):

C18 Construction of *Road Traffic Acts 1961 to 1987* extended (22.07.1994) by *Road Traffic Act 1994* (7/1994), s. 49(2), S.I. No. 222 of 1994.

Minor and consequential amendments.

49.— ...

(2) Reference in section 3 (1) (a) (as inserted by the Act of 1987) of the Local Authorities (Traffic Wardens) Act, 1975 to the Road Traffic Acts, 1961 to 1984 and references in the Act of 1993 to the Road Traffic Acts, 1961 to 1987, shall be construed as references to the Road Traffic Acts, 1961 to 1994.

...

Preparation of plans by the Authority.

18.—F10[...]

Annotations

Amendments:

F10 Repealed (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Specific functions of the Authority. **19.—F11**[(1) The Authority may, in relation to national roads or proposed national roads, do all or any of the following:

- (a) prepare, or arrange for the preparation of—
 - (i) designs for construction or improvement works,
 - (ii) programmes of maintenance works, or
 - (iii) schemes for the provision of traffic signs;
- (b) secure the carrying out of construction or maintenance works, or the provision of traffic signs;
- (c) secure the provision of facilities for the parking of vehicles;
- (d) allocate moneys and make payments in relation to construction or maintenance works, or in relation to any other function assigned to it by or under this Act;
- (e) specify standards in relation to construction or maintenance works;
- (f) carry out, arrange to have carried out or assist the carrying out of, training, research or testing activities in relation to any of its functions;
- (g) provide any amenity, structure or thing (including, without limitation, service areas, rest areas or lay-bys) for the safety and convenience of road users;
- (h) undertake landscaping, planting or any similar activities in the interests of amenity and the environment; or
- (i) provide artistic features.]

(2) The Authority shall, as far as possible, arrange that the functions referred to in F12[*paragraphs (a) to (c)*] of *subsection (1)* shall be performed on its behalf by the relevant road authority but, in any case where the Authority considers that it would be more convenient, more expeditious, more effective or more economical that the function concerned should be performed by it, it may decide accordingly.

(3) The Authority may do all such things as arise out of or are consequential on or are necessary or expedient for the performance of its functions or are ancillary thereto.

(4) No action or other proceedings shall lie or be maintainable against—

- (a) the Authority,
- (b) a committee performing functions delegated to it by the Authority,
- (c) a road authority performing functions on behalf of the Authority,
- (d) a body providing services to the Authority,

for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure of the Authority to perform or to comply with any of the functions conferred on it.

(5) (a) The Authority shall not be liable for damage caused as a result of any failure to maintain a national road.

(b) In *paragraph (a)* “damage” includes loss of property, loss of life and personal injury.

F11[(6) Development consisting of the carrying out of any works by or at the direction of, or on behalf of, the Authority under this Act in relation to the construction or maintenance of a national or other public road or anything related or incidental to such is exempted development for the purposes of the Act of 2000.]

(7) Where a decision is made by the Authority under *subsection (2)* or under *section 20 (5) (a)* to perform a particular function otherwise than through a road authority, the following provisions shall have effect—

- (a) the Authority shall be empowered (notwithstanding any other enactment) to perform the function, including the acquisition of land for that purpose, and to do any other thing which arises out of or is consequential on or is necessary for the purposes of or would facilitate the performance of the function;
- (b) for the purpose of *paragraph (a)*, land may be acquired by agreement or by means of a compulsory purchase order made by the Authority and submitted to and confirmed by the Minister in accordance with the provisions contained in section 76 of, and the Third Schedule to, the Housing Act, 1966 or by means of a scheme made by the Authority and approved by the Minister under *Part IV* of this Act;
- (c) the provisions of any enactment concerned shall apply in relation to the performance of the function subject to such modifications as may be necessary.

(8) The provisions of the Housing Act, 1966 shall apply in relation to the compulsory acquisition of land under *subsection (7)* as if it were an acquisition under Part V of that Act and for that purpose a reference to a housing authority shall be construed as a reference to the Authority.

(9) Before acquiring land by agreement under *subsection (7)*, the Authority shall obtain an independent valuation of the land.

(10) The Minister may by order make such provision as appears to him to be necessary to enable *subsection (7)* to have full effect, including provision for the application, modification or adaptation of any enactment.

F13[(11) The Landlord and Tenant Acts 1967 to 2005 do not apply to any lettings effected by the Authority or any road authority, in each case, in performing the functions conferred on it by this Act.]

Annotations

Amendments:

- F11** Substituted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 7(a) and (b), commenced on enactment.
- F12** Substituted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 11 and sch., commenced on enactment.
- F13** Inserted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 7(c), commenced on enactment.

Modifications (not altering text):

- C19** Term “Minister” construed (1.01.2001) by *Planning and Development Act 2000 (30/2000)*, s. 215(2), S.I. No. 449 of 2000, subject to s. 218(4).

Transfer of certain Ministerial functions under Roads Acts, 1993 and 1998, to Board.

215.— ...

(2) The references to the Minister in section 19(7) and paragraphs (a), (c), (e) and (f) of section 20 (1) of the Roads Act, 1993, shall be deemed to be references to the Board.

...

Oral hearings in relation to compulsory acquisition of land.

218.— ...

(4) Sections 135, 143 and 146 shall apply and have effect in relation to the functions transferred to the Board under section 214 and 215 and those sections shall be construed accordingly.

Directions by the Authority to road authorities.

20.—(1) The Authority may, in relation to a national road, direct a road authority to—

- (a) make a motorway scheme and submit it to the Minister for his approval,
- (b) make an application to the Minister for a bridge order under the Act of 1946,
- (c) make a protected road scheme and submit it to the Minister for his approval,
- (d) acquire land by making a compulsory purchase order or otherwise,
- (e) submit a compulsory purchase order to the Minister for confirmation,
- (f) prepare an environmental impact statement and apply to the Minister for the approval referred to in *section 51*,
- (g) prepare, or arrange for the preparation of, designs for specified construction or improvement works,
- (h) enter into contracts for specified construction or maintenance works,
- (i) undertake specified construction or maintenance works,
- (j) prepare, or arrange for the preparation of, a programme of maintenance works,
- (k) prepare, or arrange for the preparation of, a scheme for the provision of traffic signs,

F14[(l) provide a specified traffic sign under and in accordance with section 95 of the Act of 1961,]

- (m) do any other thing which arises out of or is consequential on or is necessary or expedient for the purposes of or would facilitate the construction or maintenance of a national road,

and the road authority shall, notwithstanding section 39 of the Act of 1963 or any other enactment, take all such measures as are necessary to comply with such a direction.

(2) Before issuing a direction under *subsection (1)* in relation to any works which would, in the opinion of the Authority, if carried out require a road authority to contravene materially a development plan or a special amenity area order, the Authority shall—

- (a) publish in one or more newspapers circulating in the area where the proposed works would be carried out a notice stating that it proposes to issue such direction and that objections or representations may be made in writing to the Authority in relation to such proposed direction before a specified date (which shall be not less than one month after the date of first publication of the notice),
- (b) serve a notice on the road authority and, where the road authority is not the planning authority, on the planning authority stating that it proposes to issue such direction and that objections or representations may be made in writing to the Authority in relation to such proposed direction before a specified date (which shall be not less than one month after the date on which the notice was served),
- (c) consider any objections or representations made to it under *paragraph (a)* or *(b)* and not withdrawn.

(3) Before issuing a direction (other than a direction to which *subsection (2)* relates) to a road authority, the Authority shall consult with such road authority.

(4) A direction under *subsection (1)* may specify the time within which such direction is to be complied with and such other matters as the Authority considers necessary.

(5) (a) Subject to *paragraph (b)*, where a road authority refuses or fails to comply with a direction under *subsection (1)*, the Authority may, notwithstanding any other enactment and in any case in which it appears to it that the circumstances so warrant, perform the function specified in the direction subject to such modifications (if any) as it considers appropriate.

(b) The Minister may, by regulations, specify a class of case in which a decision by the Authority under *paragraph (a)* shall not have effect unless and until it is approved by him.

Annotations

Amendments:

F14 Substituted (22.07.1994) by *Road Traffic Act 1994 (7/1994)*, s. 49(3)(a), S.I. No. 222 of 1994.

Modifications (not altering text):

C20 Term "Minister" construed (1.01.2001) by *Planning and Development Act 2000 (30/2000)*, s. 215(2), S.I. No. 449 of 2000, subject to s. 218(4).

215.— ...

(2) The references to the Minister in section 19(7) and paragraphs (a), (c), (e) and (f) of section 20 (1) of the Roads Act, 1993, shall be deemed to be references to the Board.

...

Oral hearings in relation to compulsory acquisition of land.

218.— ...

(4) Sections 135, 143 and 146 shall apply and have effect in relation to the functions transferred to the Board under section 214 and 215 and those sections shall be construed accordingly.

Programmes for
EC assistance.

21.—(1) (a) The Authority shall, in accordance with such terms and conditions as the Minister may specify, prepare programmes or such other documentation as may be required by him or any other Minister of the Government for the purposes of making or supporting an application to the European Communities for financial assistance (whether in the form of grants or loans) in respect of national roads.

(b) Any such programme or other documentation shall be submitted to the Minister, who following consultation with any other Minister concerned, may—

(i) approve it,

(ii) approve it with modifications,

(iii) direct that it be resubmitted to him in a modified form for approval,

(iv) refuse to approve it.

(c) An approved programme or other documentation shall not be submitted to the European Communities except by the Minister or other Minister of the Government concerned.

(2) The Authority shall, with the consent of the Minister, and in such manner as may be specified by him, assist in promoting the case for financial assistance (whether in the form of grants or loans) by the European Communities in respect of national roads.

(3) In this section “European Communities” has the meaning assigned to it by the European Communities Act, 1972.

The Authority and the physical planning process.

22.—(1) The Authority may, in relation to its functions under this Act, at any time make recommendations in writing to a planning authority as to the content of that authority's development plan and any such recommendations shall be considered by the planning authority.

(2) When performing any function in relation to the construction or improvement of a national road F15[...] the Authority shall—

- (a) consider the proper planning and development of the area in which that road is or is to be situated,
- (b) consider the effects (if any) the works concerned would have on the environment of the area concerned, and
- (c) have regard to the provisions of the development plan and any special amenity area order or tree preservation order relating to such area.

(3) (a) Where in the performance of its functions under *section 19* or *20*, the Authority proposes that a national road be constructed along a particular alignment and the appropriate road authority under *section 13* objects to that alignment, the road authority may make representations in writing to the Authority and the Authority shall consider such representations.

(b) Where following the consideration by the Authority of representations received under *paragraph (a)*, agreement on the alignment has not been reached and the representations have not been withdrawn, the road authority may make representations in writing to the Minister in relation to the matter.

(c) The road authority shall send a copy of any representations made by it under *paragraph (b)* to the Authority and the Authority may, within one month after the date on which the copy is received, make representations in writing to the Minister.

(d) The making of representations by a road authority under this subsection shall be a reserved function.

Annotations

Amendments:

F15 Deleted (27.11.2009) by *Public Transport Regulation Act 2009* (37/2009), s. 42(1) and sch. 1, pt. 2 item 1, commenced on enactment.

The Authority and traffic management.

23.—(1) The Authority may at any time make recommendations in writing to the Commissioner in relation to the performance of his functions under the Road Traffic Acts, 1961 to 1987 and the Commissioner shall have regard to such recommendations in the performance of his functions.

(2) The Minister shall consult with the Authority before—

- (a) making an order in relation to a national road under section 94 of the Act of 1961,
- (b) making regulations under section 101D of the Act of 1961 (as inserted by section 9 of the Dublin Transport Authority (Dissolution) Act, 1987),
- (c) making regulations in relation to national roads under Part IV of the Act of 1961.

(3) F16[...]

Annotations**Amendments:****F16** Deleted (22.07.1994) by *Road Traffic Act 1994* (7/1994), s. 49(3)(b), S.I. No. 222 of 1994.**Modifications (not altering text):****C21** Construction of *Road Traffic Acts 1961 to 1987* extended (22.07.1994) by *Road Traffic Act 1994* (7/1994), s. 49(2), S.I. No. 222 of 1994.**Minor and consequential amendments.****49.— ...**

(2) Reference in section 3(1)(a) (as inserted by the Act of 1987) of the Local Authorities (Traffic Wardens) Act, 1975 to the Road Traffic Acts, 1961 to 1984 and references in the Act of 1993 to the Road Traffic Acts, 1961 to 1987, shall be construed as references to the Road Traffic Acts, 1961 to 1994.

...

Grants to the Authority.

24.—The Minister may, subject to such conditions as he sees fit, in each financial year make grants of such amounts as may be sanctioned by the Minister for Finance out of moneys provided by the Oireachtas towards the capital and current expenditure of the Authority and grants under this section shall be made having particular regard to the maintenance requirements of national roads.

Borrowing by the Authority.

25.—(1) (a) The Authority may borrow money (including money in a currency other than the currency of the State) but where money is borrowed by the Authority, such borrowing shall be subject to the consent of the Minister and the Minister for Finance.

(b) The Authority may, with the consent of the Minister and the Minister for Finance, raise money (including money in a currency other than the currency of the State) by the making of promissory notes or the drawing or accepting of bills of exchange.

(2) For the purpose of borrowing, the Authority may create and issue bonds, debentures and other securities bearing such rate of interest and subject to such conditions as to repayment, redemption or otherwise as the Authority thinks fit.

(3) The Authority shall exercise the powers conferred on it by this section so that the amount or amounts of principal which the Authority may at any particular time be liable to repay on foot of any liability or liabilities incurred under this section does not, or do not in their aggregate, exceed £500,000,000.

(4) For the purposes of this section, moneys borrowed or raised in a currency other than the currency of the State shall be deemed to be the equivalent in the currency of the State of the actual moneys borrowed or raised, such equivalent being calculated according to the rate of exchange for that currency and the currency of the State at the time such moneys were borrowed or raised, as the case may be.

Guarantee by the Minister for Finance of borrowing by the Authority.

26.—(1) The Minister for Finance, after consultation with the Minister, may guarantee, in such form and manner and in such money (including money in a currency other than the currency of the State) and on such terms and conditions as he thinks fit—

(a) the due repayment by the Authority of the principal of any moneys borrowed by the Authority or the payment of the interest on such moneys, or both the repayment of such principal and the payment of such interest, and

(b) the due payment of a promissory note made by the Authority or a bill of exchange drawn or accepted by the Authority,

and any such guarantee may include a guarantee of the payment by the Authority of commission and incidental expenses arising in connection with such borrowing, promissory note or bill of exchange.

(2) The Minister for Finance shall, as soon as may be after the expiration of every financial year, lay before each House of the Oireachtas a statement setting out with respect to each guarantee under this section given during that year or given at any time before, and in force at, the commencement of that year—

(a) particulars of the guarantee,

(b) in case any payment has been made by him under the guarantee before the end of that year, the amount of the payment and the amount (if any) repaid to him on foot of the payment, and

(c) the amount of moneys covered by the guarantee which was outstanding at the end of that year.

(3) Moneys paid by the Minister for Finance under a guarantee under this section shall be repaid to him (with interest thereon at such rate or rates as he appoints) by the Authority within such period from the date of the advance of the moneys out of the Central Fund as may be specified by that Minister after consultation with the Authority.

(4) Where the whole or any part of moneys required by *subsection (3)* to be repaid to the Minister for Finance has not been paid in accordance with that subsection, the amount so remaining outstanding shall be repaid, at such times as the Minister for Finance shall determine, to the Central Fund out of moneys provided by the Oireachtas.

(5) Notwithstanding the provision of moneys under *subsection (4)* to repay the amount to the Central Fund, the Authority shall remain liable to the Minister for Finance in respect of that amount, and that amount (with interest thereon at such rate or rates as the Minister for Finance appoints) shall be repaid to him by the Authority at such times and in such instalments as he appoints.

(6) Moneys paid by the Authority under *subsection (3)* or *(5)* shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance thinks fit.

(7) In relation to guarantees given by the Minister for Finance under this section in money in a currency other than the currency of the State—

(a) each of the references to principal or interest and the reference to commission and incidental expenses in *subsection (1)*, and the reference to a promissory note or bill of exchange in *paragraph (b)* thereof, shall be taken as referring to the equivalent in the currency of the State of the actual amount of such principal, interest, commission and incidental expenses, promissory note or bill of exchange, as the case may be, such equivalent being calculated according to the cost in the currency of the State of such amount at the time the calculation is made,

(b) the reference to moneys in *subsection (2)* shall be taken as referring to the equivalent in the currency of the State of the actual moneys, such equivalent being calculated according to the rate of exchange for that currency and the currency of the State at the time the calculation is made, and

- (c) each of the references to moneys in *subsections (3) to (5)* shall be taken as referring to the cost in the currency of the State of the actual moneys.

Advances from
the Central Fund.

27.—All moneys from time to time required by the Minister for Finance to meet sums which may become payable by him under *section 26* shall be advanced out of the Central Fund or the growing produce thereof.

Chairman and
members of the
Authority.

28.—(1) (a) The Minister shall appoint the members of the Authority and shall appoint one of the members to be Chairman of the Authority.

(b) Save where a person stands appointed under *section 29* to be the Chief Executive, the Minister may, when appointing the Chairman or at any time during the Chairman's term of office, direct that the Chairman shall perform the functions referred to in *section 29 (2)*.

(c) The number of members of the Authority shall not be less than ten nor more than fourteen.

(d) Each member of the Authority shall be a person who in the opinion of the Minister has wide experience and competence in relation to roads, transport, industrial, commercial, financial or environmental matters, local government, the organisation of workers or administration.

(2) The Minister shall, when appointing the Chairman or another member of the Authority, fix his term of office which shall be for a period not exceeding five years, and, subject to *subsection (5)* and *section 34*, that person shall hold his office on such terms and conditions as the Minister, with the consent of the Minister for Finance, determines.

(3) A person appointed under this section whose term of office expires by the effluxion of time shall be eligible for reappointment.

(4) The Chairman and the other members of the Authority shall be paid by the Authority such remuneration (if any) and allowances for expenses as the Minister, with the consent of the Minister for Finance, determines.

(5) (a) The Chairman and any other member of the Authority may resign from office by letter addressed to the Minister and the resignation shall take effect from the date of the receipt of the letter by the Minister.

(b) The Minister may remove from office any such person if in the opinion of the Minister he has become incapable through ill-health of effectively performing his duties or has committed stated misbehaviour or his removal appears to the Minister to be necessary or desirable for the effective performance by the Authority of its functions.

(6) The Authority may act notwithstanding a vacancy amongst its members.

Chief Executive.

29.—(1) (a) Save where a direction is in force under *section 28 (1) (b)*, there shall be appointed from time to time a person to be the chief executive officer of the Authority (“the Chief Executive”).

(b) The first Chief Executive shall be appointed by the Minister.

(c) Each subsequent Chief Executive shall be appointed by the Authority with the consent of the Minister.

(d) The Chief Executive shall hold office for such period and upon such terms and conditions (including terms and conditions relating to remuneration) and allowances for expenses as the Minister may, with the consent of the Minister for Finance, determine from time to time.

(2) (a) The Chief Executive shall report directly to the Authority, carry on and manage and control generally the administration and business of the Authority and perform such other functions as the Authority may determine from time to time.

(b) The Chief Executive may delegate any of the functions referred to in *paragraph (a)*.

(3) The Chief Executive shall be entitled to attend and speak (but, save where he is a member of the Authority, not vote) at any meeting of the Authority or of any committee or consultative group appointed by it.

(4) Save as is provided for in any other enactment,

(a) the Minister may at any time for stated reasons terminate the employment of the first Chief Executive;

(b) the Authority may, with the consent of the Minister, at any time for stated reasons terminate the employment of any subsequent Chief Executive.

Staff.

30.—(1) The Authority may appoint such persons to be employees of the Authority as it may determine subject to the consent of the Minister and the Minister for Finance as to numbers and grading.

(2) (a) An employee of the Authority shall be paid, out of moneys at the disposal of the Authority, such remuneration and allowances for expenses as the Authority with the consent of the Minister and the Minister for Finance, may determine.

(b) An employee of the Authority referred to in *paragraph (a)* shall hold his employment on such other terms (including terms specifying the duration of such employment) and conditions as the Authority, with the consent of the Minister and the Minister for Finance, may determine.

(3) In this Part, except in this section, a reference to an employee of, or a person employed by, the Authority shall include the Chief Executive.

Transfer of staff of public authorities.

31.—(1) (a) A public authority may designate for employment by the Authority any person employed by the public authority and whose principal duties relate to a function assigned or transferred to the Authority under this Act, or to be so assigned or transferred to the Authority.

(b) A designation under this subsection by a public authority other than the Minister shall be made only with the consent of the Minister and the Authority.

(c) A public authority shall not designate an employee under this subsection, without having notified in writing the employee and any recognised trade unions or staff associations concerned, of its intention to do so and considered any representations made by him, or by them or by any of them, in relation to the matter within such time as may be specified in the notification.

(2) The Authority shall accept into its employment a person designated under *subsection (1)* for employment by it.

(3) Acceptance into the employment of the Authority of a person designated under this section shall have effect on such day as may be specified by the Minister after consultation with the Authority.

(4) The terms and conditions relating to tenure which are granted by the Authority in relation to a person accepted into its employment under this section shall not, while the person is in the employment of the Authority, be less favourable to him

than those prevailing immediately before his acceptance into such employment save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned. If a dispute arises between the Authority and any such person as to the terms and conditions prevailing immediately before his acceptance into the employment of the Authority, the matter shall be determined by the Minister for Finance, after consultation with the Minister.

(5) Save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned, a person referred to in *subsection (4)* shall not, while in the employment of the Authority, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service (other than those relating to tenure) than the scale of pay to which he was entitled and the terms and conditions of service (other than those relating to tenure) to which he was subject immediately before the day on which he was so accepted.

(6) Until such time as the scale of pay and the terms and conditions of service (other than those relating to tenure) of a person referred to in *subsection (4)* are varied by the Authority, following consultation with any recognised trade unions and staff associations concerned, the scales of pay to which such person was entitled and the terms and conditions of service (other than those relating to tenure), restrictions, requirements and obligations to which the person was subject immediately before such acceptance shall continue to apply and may be applied or imposed by the Authority, while the person is in the employment of the Authority; no such variation shall operate to worsen the scale of pay or the terms or conditions of service aforesaid applicable to an employee immediately before he was accepted into the employment of the Authority, save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned.

(7) Previous service of any person in a public authority from which he was accepted into the employment of the Authority under this section shall be reckonable for the purposes of, but subject to any other exceptions or exclusions in, the Redundancy Payments Acts, 1967 to 1991, the Holidays (Employees) Acts, 1973 and 1991, the Minimum Notice and Terms of Employment Acts, 1973 to 1991, and the Unfair Dismissals Acts, 1977 and 1991.

Provision of services.

32.—(1) For the purpose of enabling the Authority to perform its functions, the Minister may provide services (including services of staff) to the Authority on such terms and conditions (including payment for such services) as may be agreed and the Authority may avail of such services.

(2) The Authority may provide services (including services of staff) to the Minister, a road authority or any other body or person on such terms and conditions (including payment for such services) as may be agreed and the Minister, a road authority or any other body or person may avail of such services.

(3) A road authority may provide services (including services of staff) to the Minister, another road authority or any other body or person on such terms and conditions (including payment for such services) as may be agreed, and the Minister, the other road authority or any other body or person may avail of such services.

(4) A public authority may provide to the Authority any services (including services of staff) required by the Authority for the performance of any of its functions under this Act on such terms and conditions (including payment for such services) as may be agreed and the Authority may avail of such services.

Indemnification of members of the Authority and other persons.

33.—Where the Authority is satisfied that a member of the Authority, an employee of the Authority, a person whose services are provided to the Authority under *section 32* or a member of a committee or consultative group established by the Authority has discharged his duties in relation to the functions of the Authority in a *bona fide* manner, it shall indemnify such member, employee or person against all actions or claims however so arising in respect of the discharge by him of his duties.

Membership of either House of the Oireachtas or of the European Parliament by members or staff of the Authority.

34.—(1) Where a member of the Authority—

- (a) accepts nomination as a member of Seanad Éireann, or
- (b) is elected to either House of the Oireachtas or to the European Parliament, or
- (c) is regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

he shall thereupon cease to be a member of the Authority.

(2) Where a person employed by the Authority—

- (a) accepts nomination as a member of Seanad Éireann, or
- (b) is elected to either House of the Oireachtas or to the European Parliament, or
- (c) is regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

he shall thereupon stand seconded from employment by the Authority and shall not be paid by, or be entitled to receive from, the Authority any remuneration or allowances in respect of the period commencing on such acceptance, or election, as the case may be, and ending when he ceases to be a member of either such House or such Parliament.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or is a member of the European Parliament shall, while he is so entitled or is such a member, be disqualified from becoming a member of, or being employed by, the Authority.

(4) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the Authority for the purposes of any superannuation benefits.

Membership of local authority.

35.—(1) (a) F17[...]

- (b) Subject to *paragraph (c)*, no person shall be employed by the Authority while he is a member of a local authority.
- (c) The Minister may by order designate a class, description or grade of employment to which the provisions of *paragraph (b)* shall not apply while such order is in force.

(2) Where a person (whose employment has not been designated by the Minister under *subsection (1) (c)*) is elected as a member of a local authority or co-opted as a member of a local authority, he shall be released on special leave by the Authority and shall not be paid by, or be entitled to receive from, the Authority any remuneration or allowances—

- (a) in case he is elected as a member of a local authority — in respect of the period commencing on his election and ending when he ceases to be a member of the local authority,
- (b) in case he is co-opted as a member of the local authority — in respect of the period commencing on such co-option and ending when he ceases to be a member of the local authority.

(3) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in *paragraph (a) or (b)* of that subsection as service with the Authority for the purposes of any superannuation benefits.

Annotations

Amendments:

F17 Deleted (11.7.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Superannuation. **36.**—(1) The Authority may, with the consent of the Minister and the Minister for Finance, make a scheme or schemes for the granting of superannuation benefits to or in respect of—

(a) persons appointed under *sections 29 and 30* to, or accepted under *section 31* into, wholetime employment of the Authority, and

(b) the Chairman of the Authority where he by direction of the Minister under *section 28 (1) (b)* performs the functions referred to in *section 29 (2)*.

(2) A scheme under *subsection (1)* shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme and different times and conditions may be fixed in respect of different classes of persons.

(3) The Authority may, with the consent of the Minister and the Minister for Finance, make a scheme amending or revoking a scheme under this section, including a scheme under this subsection.

(4) If any dispute arises as to the claim of any person to, or the amount of any superannuation benefit payable in pursuance of a scheme or schemes under this section such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

(5) No superannuation benefits shall be granted by the Authority on the resignation, retirement or death of a person to whom *subsection (1)* relates otherwise than in accordance with a scheme or schemes under this section.

(6) A scheme under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next twenty-one days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(7) A scheme or schemes under *subsection (1)* shall, as respects a person accepted into wholetime employment of the Authority under *section 31*, provide for the granting to or in respect of him of superannuation benefits upon and subject to terms and conditions that are not less favourable to him than the terms and conditions applied to him immediately before the day on which he was so accepted into the employment of the Authority in relation to the grant of such benefits.

(8) Where, during the period between the establishment of the Authority and the coming into operation of a scheme under this section, superannuation benefits would have been granted to or in respect of a person accepted into wholetime employment of the Authority, under *section 31*, in respect of his employment with the public authority concerned, the superannuation benefits shall be granted and paid to or in respect of the person by the Authority and, for that purpose, his pensionable service with the Authority shall be aggregated with his previous pensionable service.

Disclosure of interests.

37.—(1) Where a member of the Authority, an employee of the Authority, a person whose services are provided to the Authority under *section 32*, a member of a committee or consultative group established by the Authority or a consultant, adviser or other person engaged by the Authority, has a pecuniary or other beneficial interest in, or material to, any matter which falls to be considered by the Authority, committee or consultative group or by him, he shall comply with the following requirements—

- (a) in advance of any consideration of the matter, he shall disclose to the Authority and as the case may be to any meeting of the Authority, committee or consultative group considering the matter the nature of his interest;
- (b) he shall neither influence nor seek to influence a decision to be made in relation to the matter;
- (c) he shall take no part in any consideration of the matter;
- (d) he shall withdraw from the meeting for so long as the matter is being discussed or considered by the Authority, committee or consultative group and, where he is a member of such Authority, committee or consultative group shall not vote or otherwise act as such member in relation to the matter.

(2) A person shall be regarded as having a beneficial interest in (but not confined to) each of the following cases—

- (a) he, any member of his household or any nominee of his or his household is a member of a company or any other body which has a beneficial interest in, or material to, a matter referred to in *subsection (1)*;
- (b) he or any member of his household is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter;
- (c) he or any member of his household is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates;
- (d) any member of his household has a beneficial interest in, or material to, such a matter.

(3) A person shall not be regarded as having a beneficial interest in, or material to, any matter by reason only of an interest of his or of any company or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering or discussing, or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(4) Where a question arises as to whether or not a course of conduct, if pursued by a person, would be a failure by him to comply with the requirements of *subsection (1)*, the question shall be determined by the Authority and particulars of the determination shall be recorded in the minutes of the meeting concerned.

(5) Where at a meeting of the Authority, a committee or consultative group a disclosure is made under this section, particulars of the disclosure shall be recorded in the minutes of the meeting concerned and, for as long as the matter to which the disclosure relates is being considered by the meeting, the person by whom the disclosure is made shall not be counted in the quorum of the meeting.

F18[(6) Where the Minister is satisfied that a member of the Authority has failed to comply with a requirement of *subsection (1)* he or she may, if he or she thinks fit, remove that member from office or take such other action as he or she considers appropriate, and where a person is removed from office under this subsection he or she is disqualified from being a member of the Authority.

(7) Where a person (other than a member of the Authority) to whom *subsection (1)* applies fails to comply with that subsection, then the Authority shall decide the

appropriate action (including removal from office or termination of contract) to be taken.]

Annotations

Amendments:

F18 Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Disclosure of confidential information.

38.—(1) A person shall not disclose confidential information obtained by him while performing duties as a member of the Authority, as an employee of the Authority, as a person whose services are provided to the Authority under *section 32*, as a member of a committee or consultative group established by the Authority or as a consultant, adviser or other person engaged by the Authority unless he is duly authorised to do so.

(2) In this section “confidential information” includes—

- (a) information that is expressed by the Authority or the Minister to be confidential either as regards particular information or as regards information of a particular class or description,
- (b) commercial information in relation to contractors, consultants, providers of finance or any other person,
- (c) proposals of a commercial nature or tenders submitted to the Authority or a road authority by contractors, consultants or any other person,

and “duly authorised” means authorised in writing by the Authority or by some person authorised in that behalf by the Authority.

(3) A person who contravenes *subsection (1)* shall be guilty of an offence.

Annotations

Modifications (not altering text):

C22 Disclosure of records under section exempted from restriction provided (22.04.1997) by *Freedom of Information Act 1997* (13/1997), s. 32 and sch. 3, pt. 1, commenced as per s. 1(2).

Enactments relating to non-disclosure of records.

32.—(1) A head shall refuse to grant a request under section 7 if—

- (a) the disclosure of the record concerned is prohibited by any enactment (other than a provision specified in column (3) of the Third Schedule of an enactment specified in that Schedule), or

...

THIRD SCHEDULE

Enactments Excluded from Application of Section 32.

PART 1

Statutes

Number and Year	Short Title	Provision
...
No. 14 of 1993	Roads Act 1993.	Section 38.
...

Prohibition of certain communications.

39.—(1) A person who communicates with a member of the Authority or of a committee or consultative group established by the Authority or with a person employed by the Authority or a person whose services are provided to the Authority under *section 32*, or with a consultant, adviser or other person engaged by the Authority, for the purpose of influencing improperly his consideration of any matter which falls to be considered or decided by the Authority, committee or consultative group shall be guilty of an offence.

(2) If a member or a person to whom a communication is made becomes of opinion that a communication is in contravention of *subsection (1)*, it shall be his duty not to entertain the communication further and he shall inform forthwith the Chairman of the Authority in writing of the substance of such communication and the Chairman shall acknowledge in writing the receipt of such information.

Declaration of interests.

40.—(1) It shall be the duty of a person to whom this section applies to give to the Authority a declaration in the prescribed form, signed by him, and containing particulars of every interest of his which is an interest to which this section applies and for so long as he continues to be a person to whom this section applies it shall be his duty, where there is a change regarding any such interest or where he acquires any other interest to which this section applies, to give to the Authority a new declaration in the prescribed form.

(2) (a) This section applies to—

- (i) a member of the Authority,
- (ii) a member of a committee performing a function delegated to it by the Authority, and
- (iii) an employee of the Authority or a person whose services are provided to the Authority under *section 32* where such employee or person is of a class, description or grade prescribed for the purpose of this section.

(b) This section applies to the following interests—

- (i) any estate or interest which a person to whom this section applies has in any land or in any activity,
- (ii) any business of dealing in or developing land, or any activity, in which such a person is engaged or employed and any such business carried on by a company or other body of which he, or any nominee of his, is a member,
- (iii) any profession, business or occupation in which such a person is engaged, whether on his own behalf or otherwise, and which relates to dealing in or developing land or to any activity.

(3) A person to whom this section applies and who has an interest to which this section applies shall be regarded as complying with the requirements of *subsection (1)* if, and only if, he gives to the Authority a declaration mentioned in that subsection within the period of twenty-eight days beginning—

- (a) in case the person is such a person on the commencement of this section — on such commencement,
- (b) in case the person becomes such a person after the commencement of this section — on the day on which he becomes such a person,
- (c) in case there is a change regarding an interest particulars of which are contained in a declaration already given by the person or where the person acquires any other interest to which this section applies — on the day on which the change occurs or the other such interest is acquired.

(4) For the purposes of this section, a person shall be regarded as having an estate or interest in land or an activity if he, or any nominee of his, is a member of a company or other body which has an estate or interest in the land or the activity.

(5) For the purposes of this section, a person shall not be regarded as having an interest to which this section applies if the interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering or discussing, or in voting on, any question with respect to any matter arising or coming before the Authority or a committee of the Authority, or in performing any function in relation to any such matter.

(6) Where a person to whom this section applies has an interest to which this section applies by reason only of the beneficial ownership of shares in a company or other body by him or by his nominee and the total nominal value of those shares does not exceed the lesser of—

(a) one thousand pounds, or

(b) one-hundredth part of the total nominal value of either the issued share capital of the company or body, or where that capital is issued in shares of more than one class, the issued share capital of the class or classes of shares in which he has an interest,

subsection (1) shall not have effect in relation to that interest.

(7) The Authority shall for the purposes of this section keep a register (which register is in this section referred to as the register of interests) and shall enter therein the particulars contained in declarations given to the Authority under this section.

(8) The register of interests shall be available for inspection by any person at the Authority's headquarters during office hours and a copy of the register or any entry in the register may be obtained by any person on the payment to the Authority of such fee (if any) as the Authority shall fix not exceeding the reasonable cost of making a copy.

(9) Where a person ceases to be a person to whom this section applies, any particulars entered in the register of interests as a result of a declaration being given by the person to the Authority under this section shall be removed, as soon as may be after the expiration of the period of five years beginning on the day on which the person ceases to be such a person, from the said register by the Authority.

(10) Subject to *subsection (11)*, a person who fails to comply with *subsection (1)* or who, when purporting to comply with the requirements of the said *subsection (1)*, gives particulars which are false or which to his knowledge are misleading in a material respect, shall be guilty of an offence.

(11) In any proceedings for an offence under this section it shall be a defence for the defendant to prove that at the relevant time he believed, in good faith and upon reasonable grounds, that—

(a) the relevant particulars were true,

(b) there was no matter as regards which he was then required to make a declaration under *subsection (1)*, or

(c) the matter in relation to which the offence is alleged was not one as regards which he was so required to make such declaration.

(12) In this section "activity" means—

(a) the provision of consultancy services in relation to road construction or maintenance,

- (b) the carrying out or the management of road construction or maintenance works,
- (c) the provision, manufacture or supply of equipment, plant, materials or any other thing for the purpose of road construction or maintenance,
- (d) the provision to the Authority or a road authority of training, research or testing services in relation to its functions, and
- (e) any other prescribed activity.

Annotations**Editorial Notes:**

E31 Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

Power of Minister to issue directions and guidelines to the Authority.

41.—(1) The Minister may give a direction in writing to the Authority in relation to any of the functions assigned to it by or under this Act and the Authority shall comply with the direction.

(2) The Minister shall lay a copy of any direction given by him under *subsection (1)* before each House of the Oireachtas.

(3) (a) The Minister may give policy, financial or other guidelines to the Authority in relation to the performance of the functions assigned to it by or under this Act and the Authority shall have regard to such guidelines when performing its functions.

(b) The Minister shall not give financial guidelines to the Authority under *paragraph (a)* save with the consent of the Minister for Finance.

(4) The Minister shall lay a copy of any guidelines given by him under *subsection (3)* before each House of the Oireachtas.

Application of *Third Schedule* to the Authority.

42.—The *Third Schedule* shall apply in relation to the Authority.

PART IV

MOTORWAYS, BUSWAYS AND PROTECTED ROADS

Annotations**Modifications (not altering text):**

C23 Terms “local inquiries” and “public local enquiries” construed (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 218(3)(c), S.I. No. 449 of 2000.

Oral hearings in relation to compulsory acquisition of land.**218.**—

(3) For the purposes of this Part, the references to local inquiries or public local inquiries in the following provisions shall be deemed to be references to oral hearings under this section: ...

(c) Part IV of the Roads Act, 1993.

...

Editorial Notes:

- E32** Obligation to carry out a road safety impact assessment at initial planning stage of project prior to submitting scheme to An Bord Pleanála pursuant to ss. 47 and 49 imposed, in case of infrastructure projects coming within Part (21.09.2011) by *European Communities (Road Infrastructure Safety Management) Regulations 2011* (S.I. No. 472 of 2011), reg. 4(2)(a).

Motorways.

43.—F19[(1) In this Act ‘motorway’ means

(a) a public road or proposed public road specified to be a motorway in a motorway scheme approved under section 49, or

(b) a national road or a proposed road development for the construction of a national road declared to be a motorway under *section 8 of the Roads Act 2007*.]

(2) A person shall not have or be entitled to direct access from any land adjoining a motorway to the motorway, or from the motorway to such land, nor shall a right to such direct access be granted at any time.

F20[(2A) Notwithstanding subsection (2) and section 46(4), direct access from any adjoining land to a motorway or from the motorway to such land may be granted by a road authority to the Railway Procurement Agency, an applicant or a railway undertaking (within the meaning of the *Transport (Railway Infrastructure) Act, 2001*) in respect of a railway (within the meaning of that Act)—

(a) authorised by a railway order under *section 43 of the Transport (Railway Infrastructure) Act, 2001*, or

(b) the subject of an application for a railway order under *section 37 of that Act*,

subject to such conditions as the road authority may decide, and, accordingly, any such access shall not be a contravention of subsection (2) or section 46(4).]

(3) The Minister may prescribe—

(a) the classes of vehicles which shall be permitted to use a motorway and different classes of vehicles may be prescribed in relation to motorways generally, particular motorways or particular parts of particular motorways, and

(b) conditions in relation to the use of motorways generally, particular motorways or particular parts of particular motorways by vehicles or specified classes of vehicles (including conditions specifying the periods of use of motorways by specified classes of vehicles) and different conditions may be prescribed in relation to different motorways or different classes of vehicles.

(4) (a) Pedestrians and pedal cyclists shall not use a motorway.

(b) Persons in charge of, or having control over, animals shall not permit them to be on a motorway.

(5) (a) A person who uses a motorway in contravention of regulations under *subsection (3)* shall be guilty of an offence.

(b) A person who contravenes *subsection (4)* shall be guilty of an offence.

(6) A reference in any enactment or instrument to a motorway shall be deemed to be a reference to a motorway as defined in this Act.

Annotations**Amendments:**

- F19** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 8(3), commenced on enactment.
- F20** Substituted (23.12.2001) by *Transport (Railway Infrastructure) Act 2001* (55/2001), s. 70, commenced on enactment.

Editorial Notes:

- E33** Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).
- E34** Previous affecting provision: subs. 2(A) inserted (1.07.1998) by *Roads (Amendment) Act 1998* (23/1998), s. 3, commenced on enactment.

Busways.

44.—(1) A busway means a public road or proposed public road specified to be a busway in a busway scheme approved by the Minister under *section 49*.

(2) Save as is provided in *subsection (4) (a)*, a person shall not have or be entitled to direct access from any land adjoining a busway to the busway, or from the busway to such land nor shall a right to such direct access be granted at any time.

(3) The Minister may F21[...] prescribe—

- (a) the classes of vehicles which shall be permitted to use a busway and different classes of vehicles may be prescribed in relation to busways generally, particular busways or particular parts of particular busways, and
- (b) conditions in relation to the use of busways generally, particular busways or particular parts of particular busways by vehicles or specified classes of vehicles (including conditions specifying the periods of use of busways by specified classes of vehicles) and different conditions may be prescribed in relation to different busways or different classes of vehicles.

(4) (a) Pedestrians (other than for the purposes of access to or from vehicles prescribed under *subsection (3)*) and pedal cyclists shall not use a busway.

(b) Persons in charge of, or having control over, animals shall not permit them to be on a busway.

(5) (a) A person who uses a busway in contravention of regulations under *subsection (3)* shall be guilty of an offence.

(b) A person who contravenes *subsection (4)* shall be guilty of an offence.

Annotations**Amendments:**

- F21** Deleted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Protected roads.

45.—(1) A protected road means a public road or proposed public road specified to be a protected road in a protected road scheme approved by the Minister under *section 49*.

(2) A protected road scheme approved by the Minister may provide for the prohibition, closure, stopping up, removal, alteration, diversion or restriction of any specified

or all means of direct access to the protected road from specified land or from specified land used for a specified purpose or to such land from the protected road.

(3) (a) A protected road scheme approved by the Minister may prohibit or restrict the use of the protected road or a particular part thereof by—

(i) specified types of traffic,

(ii) specified classes of vehicles,

but shall not prohibit or restrict such use—

(I) by ambulances or fire brigade vehicles,

(II) by vehicles used by members of the Garda Síochána or the Defence Forces in the performance of their duties as such members,

(III) for the purpose of maintaining such protected road.

(b) A person who contravenes a prohibition or restriction under *paragraph (a)* shall be guilty of an offence.

Prohibition and restriction of access to motorways, busways and protected roads.

46.—(1) Notwithstanding anything contained in any other enactment, neither a planning authority nor An Bord Pleanála shall decide to grant, or grant, planning permission, nor shall a decision by a planning authority to grant any planning permission be regarded as having been given under F22[[section 34\(8\) of the Act of 2000](#)]

(a) for any development of land which would permit or involve direct access to or from a motorway or a busway or which would contravene the provisions of a protected road scheme approved by the Minister under *section 49* relating to direct access to or from a protected road,

(b) for any development of land proposed to be compulsorily acquired under a scheme made by a road authority under *section 47*,

(c) for any development of land where such development would affect materially the exercise by the road authority of the rights proposed to be compulsorily acquired in relation to land under a scheme made by a road authority under *section 47*,

(d) for any development of land which would contravene the provisions of a scheme made by a road authority under *section 47*.

(2) (a) Where the Minister, by order under *section 49*, refuses to approve a scheme, *subsection (1)* shall cease to apply in relation to such scheme with effect from the date of the making of such order.

(b) Where the Minister, by order under *section 49*, approves a scheme with modifications, *subsection (1)* shall, with effect from the date of the making of such order, apply only to such scheme as approved with modifications.

(3) Compensation under F22[[section 190 of the Act of 2000](#)] shall not be payable in respect of the refusal of permission for any development of land of a kind referred to in *subsection (1)* or in respect of the imposition, on the granting of permission to develop land, of any condition relating to—

(a) the prohibition of direct access to or from a motorway or a busway,

(b) the prohibition, closure, stopping up, removal, alteration, diversion or restriction of direct access to or from a protected road which is provided for in a protected road scheme approved by the Minister under *section 49*.

(4) Save as is provided for in *section 54*, no person shall undertake any development of land which would permit or involve direct access to or from a motorway or a busway or which would contravene the provisions of an approved protected road scheme relating to direct access to or from a protected road.

(5) (a) Where a means of direct access from any land to a motorway or a busway or to any land from a motorway or a busway has been constructed, or otherwise provided, by any person in contravention of *section 43 (2)* or *44 (2)* or *subsection (4)* of this section, the road authority may, without giving notice to the owner of the land or to any other person, take all steps necessary to close, stop up or remove the means of access and may recover from the owner of the land as a simple contract debt in any court of competent jurisdiction any expenses reasonably incurred by the road authority in closing, stopping up or removing that means of access.

(b) Where a means of direct access from any land to a protected road or to any land from a protected road contravenes a protected road scheme approved by the Minister under *section 49*, the road authority may (as appropriate in accordance with the provisions of such scheme) take all steps necessary to close, stop up, remove, alter, divert or restrict the means of access and may, where the means of access was provided subsequent to the approval by the Minister of the protected road scheme, recover from the owner of the land as a simple contract debt in any court of competent jurisdiction any expenses reasonably incurred by the road authority in closing, stopping up, removing, altering, diverting or restricting that means of access.

(6) (a) Any person who constructs or provides or attempts to construct or provide a means of direct access to or from a motorway or a busway in contravention of *section 43 (2)* or *section 44 (2)* shall be guilty of an offence.

(b) Any person who contravenes *subsection (4)* shall be guilty of an offence.

(c) Any person who constructs, provides or retains or attempts to construct, provide or retain a means of direct access which contravenes a protected road scheme approved by the Minister under *section 49* shall be guilty of an offence.

(7) Any person (other than a road authority) who interferes with (otherwise than with the prior written consent of the road authority) or damages any fence or other boundary forming part of a motorway, a busway or a protected road shall be guilty of an offence.

Annotations

Amendments:

F22 Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Scheme for a motorway, busway or protected road.

F23[47.—(1) A road authority or the Authority may make—

(a) a motorway scheme,

(b) a service area scheme,

(c) a busway scheme,

(d) a protected road scheme, or

(e) a protected road scheme amending a protected road scheme approved under *section 49*,

referred to in this Part as a “scheme”.]

- (2) (a) A scheme under this section shall be in the prescribed form and shall (where appropriate) specify—
- (i) the proposed motorway, busway F24[, protected road or service area] to which the scheme relates,
 - (ii) any land F25[or any substratum of land] which is proposed to be compulsorily acquired for the purposes of the proposed motorway, busway F24[, protected road or service area],
 - (iii) any rights proposed to be compulsorily acquired in relation to land for the purposes of the proposed motorway, busway F24[, protected road or service area],
 - (iv) any public and private rights of way proposed to be extinguished over the land referred to in subparagraphs (ii) and (iii),
 - (v) any land in respect of which it is proposed to prohibit, close, stop up, remove, alter, divert or restrict a means of direct access to or from the proposed motorway, busway F24[, protected road or service area],
 - (vi) any land used for a specified purpose in respect of which it is proposed to prohibit, close, stop up, remove, alter, divert or restrict a means of direct access to or from the proposed protected road,
 - (vii) any planning permissions for the development of land proposed to be revoked or modified and the extent of any such modification,
 - (viii) such other matters as may be prescribed from time to time by the Minister.
- (b) The matters referred to in paragraph (a) shall (where appropriate) be described by reference to a map or maps.
- (c) The land F25[or substratum of land] referred to in paragraph (a) (ii) and the rights in relation to land referred to in paragraph (a) (iii) shall include all land F25[substrata of land] and rights in relation to land necessary for or incidental to the construction or maintenance of a motorway, a busway or a protected road and all land F25[, substrata of land] or rights in relation to land required for access roads, ramps, toll facilities, service areas F26[(provided under a motorway or protected road scheme)] and maintenance depots.
- (3) Where it is proposed to prohibit or restrict the use of a protected road or a particular part thereof by—
- (a) specified types of traffic, or
 - (b) specified classes of vehicles, the protected road scheme shall specify the proposed prohibitions or restrictions.
- (4) (a) Where in accordance with subsection (2) a scheme made by a road authority F26[or the Authority] specifies a planning permission which is proposed to be revoked, that planning permission shall stand suspended from the date of the making of the scheme until the Minister approves or refuses to approve the scheme under section 49 and if the scheme is approved the planning permission shall be revoked.
- (b) Where in accordance with subsection (2) a scheme made by a road authority F26[or the Authority] specifies a planning permission which is proposed to be modified, that planning permission shall stand modified to such extent as is specified in the scheme from the date of the making of the scheme until the Minister approves or refuses to approve the scheme under section 49

and if the scheme is approved the planning permission shall be modified to such extent as is specified in the scheme as approved.

- (c) A planning authority shall enter in F27[the register kept by it under section 7 of the Act of 2000] particulars of—
- (i) the planning permissions proposed to be revoked or modified under a scheme made under this section and the extent of such modification,
 - (ii) the decision of the Minister under section 49 (3) insofar as it affects the planning permissions referred to in subparagraph (i).
- (d) For the purposes of this section “planning permission” means a planning permission (which has not ceased to have effect in accordance with the provisions of the Act of 1982).

Annotations

Amendments:

- F23** Substituted (11.07.2007) by *Roads Act 2007* 34/2007, s. 9(1)(a)(i), commenced on enactment.
- F24** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 9(1)(a)(i) and (ii), commenced on enactment.
- F25** Inserted (1.07.1998) by *Roads (Amendment) Act 1998* (23/1998), s. 4, commenced on enactment.
- F26** Inserted (11.07.2007) by *Roads Act 2007* (34/2007), s. 9(1)(a)(iii) and (iv), commenced on enactment.
- F27** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Editorial Notes:

- E35** Power pursuant to section exercised (28.02.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008).
- E36** Form for the purposes of subs. (2) prescribed (28.02.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008), reg. 3 and sch.
- E37** Power pursuant to section exercised (1.01.2001) by *Roads Regulations 2000* (S.I. No. 453 of 2000).
- E38** Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

F28[Procedures to be followed by road authority when submitting scheme to Bord Pleanála.

48.— Before submitting a scheme to An Bord Pleanála under section 49 a road authority or the Authority, as the case may be, shall—

- (a) publish in one or more newspapers circulating in the area where the proposed motorway, service area, busway or protected road is to be located a notice in the prescribed form—
- (i) stating that a scheme has been made,
 - (ii) indicating the times at which, the period (not being less than 6 weeks) during which and the place where a copy of the scheme and the map referred to in it may be inspected, and
 - (iii) stating that objections may be made in writing to An Bord Pleanála in relation to the scheme during that period,
- F29[(iv) stating that a person may question the validity of a decision of An Bord Pleanála by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and

(v) identifying where practical information on the review mechanism can be found.]

and

(b) serve on every owner and occupier of any land referred to in a scheme and on every person who, in the opinion of the road authority or the Authority, as the case may be, is affected by the proposed revocation or modification of a planning permission specified in the scheme, a notice in the prescribed form stating—

(i) the nature and extent of the scheme,

(ii) that the scheme will be submitted to An Bord Pleanála for approval, and

(iii) the period (which is that referred to in paragraph (a)(ii)) within which objections may be made in writing to An Bord Pleanála in relation to the scheme.]

Annotations

Amendments:

F28 Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 9(1)(b), commenced on enactment.

F29 Inserted (13.07.2010) by *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010), reg. 12(1).

Editorial Notes:

E39 Power to determine fees under section provided by *Planning and Development Act 2000* (30/2000), s. 144(1A)(j), as inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 44, S.I. No. 477 of 2010.

E40 Power pursuant to section exercised (28.02.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008).

E41 Form for the purposes of para. (a) prescribed (28.02.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008), reg. 4 and sch. 2.

E42 Form for the purposes of para. (b) prescribed (28.02.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008), reg. 5 and sch. 3.

E43 Power pursuant to section exercised (1.01.2001) by *Roads Regulations 2000* (S.I. No. 453 of 2000).

E44 Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

E45 Previous affecting provision: section amended (31.1.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 51(2), S.I. No. 684 of 2006. Section 48 subsequently substituted as per F-note above.

Approval of scheme by Minister.

49.—F30[(1) A road authority or the Authority shall submit any scheme made by it under section 47 to An Bord Pleanála for its approval.]

(2) Before approving a scheme submitted to him the Minister shall—

(a) cause a public local inquiry into all matters relating to the scheme to be held,

(b) consider any objections to the scheme which have been made to him and not withdrawn,

(c) consider the report and any recommendation of the person conducting such inquiry.

(3) The Minister may, by order, approve a scheme with or without modifications or he may refuse to approve such a scheme and shall publish in one or more newspapers circulating in the area where the proposed motorway, busway F31[, **protected road or service area**] is to be located notice of his decision, including, where appropriate, particulars of any modifications to the scheme.

(4) The Minister may, in any case where he considers it reasonable to do so, direct the road authority to provide for any person who, by reason of the implementation of a motorway, busway F31[, **protected road or service area**] scheme—

- (a) is permanently deprived of reasonable access to or from his property or to or from one part of his property to another — a suitable alternative means of access,
- (b) is, during construction, temporarily deprived of reasonable access to or from his property or to or from one part of his property to another — a temporary means of access during the course of such construction, and the road authority shall comply with any such direction.

(5) Where a scheme made by a road authority under section 47 specifies a planning permission which it is proposed to revoke or modify and where the Minister—

- (a) refuses to approve the scheme, or
- (b) approves the scheme with modifications and the effect of such modifications is that the specified planning permission will not be revoked or modified or will be modified in a form other than that specified in the scheme as made by the road authority, the duration of such planning permission shall, notwithstanding F32[**section 40 of the Act of 2000**], be extended by a period specified in the order of the Minister under subsection (3), the duration of which shall be equivalent to the period beginning on the date on which the scheme was made by the road authority and ending on the date on which the decision referred to in paragraph (a) or (b) was made by the Minister.

F33[(6) **Where the Authority has submitted a scheme for approval under subsection (1) references to road authority in the other provisions of this section in respect of the scheme are to read as references to the Authority.**]

Annotations

Amendments:

- F30** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 9(1)(c)(i), commenced on enactment.
- F31** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 9(1)(c)(ii), commenced on enactment.
- F32** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.
- F33** Inserted (11.07.2007) by *Roads Act 2007* (34/2007), s. 9(1)(c)(iii), commenced on enactment.

Modifications (not altering text):

- C24** Application of section extended by *Planning and Development Act 2000* (30/2000), s. 217B(4) and (5), as inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 38, S.I. No. 684 of 2006.

Transferred functions under this Part: supplemental provisions

217B.—...

- (4) The Board may—
 - (a) if it considers it necessary to do so, require a road authority that has submitted a scheme under section 49 of the Roads Act 1993 or made an application for approval under section 51 of that Act to furnish to the Board such further information in relation to—

- (i) the effects on the environment of the proposed scheme or road development, or
- (ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development, as the Board may specify, or

- (b) if it is provisionally of the view that it would be appropriate to approve the scheme or proposed road development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of it, notify the road authority that it is of that view and invite the authority to make to the terms of the scheme or proposed road development alterations specified in the notification and, if the authority makes those alterations, to furnish to it such information (if any) as it may specify in relation to the scheme or road development, in the terms as so altered, or, where necessary, a revised environmental impact statement in respect of it.

(5) If a road authority makes the alterations to the terms of the scheme or proposed road development specified in a notification given to it under subsection (4), the terms of the scheme or road development as so altered shall be deemed to be the scheme or proposed road development for the purposes of sections 49, 50 and 51 of the Roads Act 1993.

C25 Application of section extended (11.03.2002) by *Planning and Development Act 2000* (30/2000), s. 227(2), S.I. No. 599 of 2001, subject to restriction in s. 227(11).

Acquisition of land etc. on foreshore.

227.— ...

(2) The functions of a road authority under sections 49, 50 and 51 of the Roads Act, 1993, shall extend to the foreshore adjoining the functional area of the road authority concerned.

...

(11) This section shall not apply to any application to the Minister for the Marine and Natural Resources for a lease under section 2 of the Foreshore Act, 1933, or for a licence under section 3 of that Act made before the coming into operation of this section.

C26 Application of section extended (1.07.1998) by *Roads (Amendment) Act 1998* (23/1998), s. 8, commenced on enactment.

Motorway schemes made under Local Government (Roads and Motorways) Act, 1974.

8.—Where a motorway scheme has been made pursuant to section 4 of the Local Government (Roads and Motorways) Act, 1974, and no order was made pursuant to section 2(2) of that Act in respect of the proposed public road the subject of such scheme, the Minister for the Environment and Local Government may, where the scheme was approved pursuant to either section 4 of that Act or section 49 of the Principal Act, by order declare such proposed public road to be a motorway and such order shall have the same effect as an order to which section 5(1)(b) of the Principal Act applies.

Environmental
impact state-
ment.

50.—(1) F34[(a) A road authority or the Authority shall prepare a statement of the likely effects on the environment ('environmental impact statement') of any proposed road development it proposes consisting of—

- (i) the construction of a motorway,
- (ii) the construction of a busway,
- (iii) the construction of a service area, or
- (iv) any prescribed type of proposed road development consisting of the construction of a proposed public road or the improvement of an existing public road.]

- (b) Where the Minister considers that any proposed road development (other than development to which *paragraph (a)* applies) consisting of the construction of a proposed public road or the improvement of an existing

public road would be likely to have significant effects on the environment, he shall direct the road authority to prepare an environmental impact statement in respect of such proposed road development and the authority shall comply with such direction.

(c) Where a road authority considers that any proposed road development (other than development to which *paragraph (a)* applies) consisting of the construction of a proposed public road or the improvement of an existing public road would be likely to have significant effects on the environment, it shall inform the Minister in writing and where the Minister concurs with the road authority he shall give a direction to the road authority under *paragraph (b)*.

F35[(d) Where a proposed road development (other than development to which *paragraph (a)* applies) consisting of the construction of a proposed public road or the improvement of an existing public road would be located on:

F36[(i) a European Site, meaning

(I) a candidate site of Community importance,

(II) a site of Community importance,

(III) a candidate special area of conservation,

(IV) a special area of conservation,

(V) a candidate special protection area, or

(VI) a special protection area]

(ii) F37[...]

(iii) F37[...]

(iv) F37[...]

(v) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act, 1976 (No. 39 of 1976),

(vi) land designated as a refuge for fauna under section 17 of the Wildlife Act, 1976 (No. 39 of 1976),

the road authority concerned shall decide whether the proposed road development would or would not be likely to have significant effects on the environment, and if the authority decides that the proposed road development would be likely to have such effects, *paragraph (c)* shall apply accordingly.

(e) Where a decision is being made pursuant to this subsection on whether a proposed road development would or would not be likely to have significant effects on the environment, the Minister or the road authority concerned (as the case may be) shall have regard to the criteria specified for the purposes of article 27 of the European Communities (Environmental Impact Assessment) Regulations, 1989.

(f) Where a road authority makes a decision pursuant to *paragraph (d)* on whether a proposed road development would or would not be likely to have significant effects on the environment, it shall make the said decision available for inspection by members of the public.]

F38[(2) An environmental impact statement shall contain the following specified information—

- (a) a description of the proposed road development comprising information on the site, design and size of the proposed road development;
- (b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (c) the data required to identify and assess the main effects which the proposed road development is likely to have on the environment;
- (d) an outline of the main alternatives studied by the road authority concerned and an indication of the main reasons for its choice, taking into account the environmental effects;
- (e) a summary in non-technical language of the above information.

(3) An environmental impact statement shall, in addition to and by way of explanation or amplification of the specified information referred to in subsection (2), contain further information on the following matters—

- (a) (i) a description of the physical characteristics of the whole proposed road development and the land-use requirements during the construction and operational phases,
 - (ii) an estimate, by type and quantity, of expected residues and emissions (including water, air and soil pollution, noise, vibration, light, heat and radiation) resulting from the operation of the proposed road development;
- (b) a description of the aspects of the environment likely to be significantly affected by the proposed road development, including in particular—
 - human beings, fauna and flora,
 - soil, water, air, climatic factors and the landscape,
 - material assets, including the architectural and archaeological heritage, and the cultural heritage,
 - the inter-relationship between the above factors;
- (c) a description of the likely significant effects (including direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative) of the proposed road development on the environment resulting from—
 - the existence of the proposed road development,
 - the use of natural resources,
 - the emission of pollutants, the creation of nuisances and the elimination of waste,and a description of the forecasting methods used to assess the effects on the environment;
- (d) an indication of any difficulties (technical deficiencies or lack of know-how) encountered by the road authority concerned in compiling the required information;
- (e) a summary in non-technical language of the above information;

to the extent that such information is relevant to a given stage of the consent procedure and to the specific characteristics of the proposed road development or type of proposed road development concerned, and of the environmental features likely to be affected, and the road authority preparing the environmental impact

statement may reasonably be required to compile such information having regard, inter alia, to current knowledge and methods of assessment.]

F35[(4) (a) If a road authority, before submitting an environmental impact statement in accordance with section 51, so requests, the Minister shall, after consulting the road authority concerned and the bodies and persons referred to in paragraph (b) of subsection (3) of that section, give a written opinion on the information to be contained in such statement.

(b) The giving of a written opinion in accordance with this subsection shall not prejudice the exercise by the Minister of his powers pursuant to subsection (4) of section 51 to require the road authority concerned to furnish him with specified additional information in relation to the likely effects on the environment of the proposed road development.]

F39[(5) Where the Authority proposes the construction of a proposed road development consisting of anything referred to in subsection (1) references to road authority in the other provisions of this section in respect of the development are to be read as references to the Authority.]

Annotations

Amendments:

- F34** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 9(1)(d)(i), commenced on enactment.
- F35** Inserted (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 14(a) and (c).
- F36** Substituted (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), reg. 56(7)(a).
- F37** Repealed (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), reg. 56(7)(b).
- F38** Substituted (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 14(b).
- F39** Inserted (11.07.2007) by *Roads Act 2007* (34/2007), s. 9(1)(d)(ii), commenced on enactment.

Modifications (not altering text):

- C27** Application of section extended (11.03.2002) by *Planning and Development Act 2000* (30/2000), s. 227(2), S.I. No. 599 of 2001, subject to restriction in s. 227(11).

Acquisition of land etc. on foreshore.

227.—...

(2) The functions of a road authority under sections 49, 50 and 51 of the Roads Act, 1993, shall extend to the foreshore adjoining the functional area of the road authority concerned.

...

(11) This section shall not apply to any application to the Minister for the Marine and Natural Resources for a lease under section 2 of the Foreshore Act, 1933, or for a licence under section 3 of that Act made before the coming into operation of this section.

- C28** Application of section extended by *Planning and Development Act 2000* (30/2000), s. 217B(4) and (5), as inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 38, S.I. No. 684 of 2006.

Transferred functions under this Part: supplemental provisions

217B.—...

(4) The Board may—

- (a) if it considers it necessary to do so, require a road authority that has submitted a scheme under section 49 of the Roads Act 1993 or made an application for approval under section 51 of that Act to furnish to the Board such further information in relation to—
- (i) the effects on the environment of the proposed scheme or road development, or
 - (ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development, as the Board may specify, or
- (b) if it is provisionally of the view that it would be appropriate to approve the scheme or proposed road development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of it, notify the road authority that it is of that view and invite the authority to make to the terms of the scheme or proposed road development alterations specified in the notification and, if the authority makes those alterations, to furnish to it such information (if any) as it may specify in relation to the scheme or road development, in the terms as so altered, or, where necessary, a revised environmental impact statement in respect of it.

(5) If a road authority makes the alterations to the terms of the scheme or proposed road development specified in a notification given to it under subsection (4), the terms of the scheme or road development as so altered shall be deemed to be the scheme or proposed road development for the purposes of sections 49, 50 and 51 of the Roads Act 1993.

C29 Application of subs. (1)(b) restricted (18.07.2004) by *National Monuments (Amendment) Act 2004* (22/2004), s. 8(4), commenced on enactment.

South Eastern Route and National Monuments Acts 1930 to 2004.

8.— ...

(4) Section 50(1)(b) of the Roads Act 1993 shall not apply in respect of the South Eastern Route.

Editorial Notes:

E46 Power to determine fees under section provided by *Planning and Development Act 2000* (30/2000), s. 144(1A)(e), as inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 44, S.I. No. 477 of 2010.

E47 Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

E48 Previous affecting provision: subs. 3 substituted (18.09.1998) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1998* (S.I. No. 351 of 1998), reg. 14(a).

Environmental impact assessment.

51.—F40[(1) A proposed road development shall not be carried out unless An Bord Pleanála has approved it or approved it with modifications.

(2) The road authority concerned or the Authority, as the case may be, shall apply to An Bord Pleanála for the approval referred to in subsection (1) in relation to a proposed road development it proposes and shall submit to An Bord Pleanála the environmental impact statement prepared in respect of the development.]

(3) Where a road authority has made an application for approval under subsection (2), it shall as soon as may be—

- (a) publish in one or more newspapers circulating in the area in which the proposed road development would take place a notice in the prescribed form—
 - (i) stating that it has made an application to the Minister for the approval of the proposed road development,
 - (ii) stating that an environmental impact statement in respect of the proposed road development has been prepared,

- (iii) indicating the times at which, the period F41[(not being less than 6 weeks)] during which and the place where a copy of the environmental impact statement may be inspected,
 - (iv) stating that a copy of the environmental impact statement may be purchased on payment of a specified fee not exceeding the reasonable cost of making such copy, F42[...]
 - (v) stating that submissions may be made in writing to the Minister in relation to the likely effects on the environment of the proposed road development F41[during the period referred to in paragraph (a)(iii)];
- F43[(vi) where relevant, stating that the proposed road development is likely to have significant effects on the environment in Northern Ireland, and
- (vii) specifying the types of decision F44[An Bord Pleanála] may make, under section 51(6), in relation to the application;]
- (b) send a copy of the environmental impact statement together with a notice in the prescribed form, stating that the authority has made an application for approval of the proposed road development and that submissions may be made in writing to the Minister F41[within a specified period (which shall be that referred to in paragraph (a)(iii))] in relation to the likely effects on the environment of the proposed road development to each of the following—
- (i) the Commissioners of Public Works in Ireland,
 - (ii) Bord Fáilte Éireann,
 - (iii) An Taisce — the National Trust for Ireland,
 - (iv) any other prescribed body or person;
- (c) send a copy of the environmental impact statement to the prescribed authority in Northern Ireland where the proposed road development is likely to have significant effects on the environment in Northern Ireland or where that authority so requests, together with a notice in the prescribed form, stating that the authority has made an application for approval of the proposed road development and that submissions may be made in writing to the Minister in relation to the likely effects on the environment of the proposed road development.
- F45[(d) where the environmental impact statement and a notice has been sent to the prescribed authority in Northern Ireland pursuant to paragraph (c), enter into consultations with that authority regarding the potential effects on the environment of the proposed road development and the measures envisaged to reduce or eliminate such effects.]

(4) The Minister may require a road authority which has applied to him for an approval in accordance with subsection (2) to furnish him with specified additional information in relation to the likely effects on the environment of the proposed road development and the authority shall comply with any such requirement.

F46[(4A) The Minister shall, where he considers that additional information furnished in accordance with a requirement under subsection (4) contains significant additional data in relation to the effects on the environment of the proposed road development, require the relevant road authority to —

- (a) publish in one or more newspapers circulating in the area in which the proposed road development would take place a notice stating that significant additional information in relation to the said effects has been furnished to the Minister, that the additional information will be available, for inspection or for purchase (on payment of a specified fee not exceeding the reasonable cost of making a copy) , at a specified place and at specified times during a specified period,

- and that submissions or observations in relation to the additional information may be made in writing to the Minister before a specified date, and
- (b) send notice of the furnishing to the Minister of significant additional information, and a copy of the additional information, to the bodies and persons and the authority (where appropriate) referred to in subsections (3) (b) and (c) and to indicate to such bodies and persons and the authority (where appropriate) that submissions or observations in relation to the additional information may be made in writing to the Minister before a specified date.]
- (5) Before approving a proposed road development the Minister shall—
- (a) consider the environmental impact statement submitted under *subsection (2)*, any additional information furnished under *subsection (4)* and any submissions made in relation to the likely effects on the environment of the proposed road development,
- (b) consider any views of the prescribed authority in Northern Ireland where a copy of the environmental impact statement was sent to it in accordance with *subsection (3) (c)*,
- (c) consider the report and any recommendation of the person conducting an inquiry referred to in *subsection (7)* where evidence is heard at such inquiry in relation to the likely effects on the environment of the proposed road development.
- (6) The Minister may, by order, approve a proposed road development with or without modifications or he may refuse to approve such a development and shall—
- (a) publish in one or more newspapers circulating in the area in which the proposed road development would take place notice of his decision, including, where appropriate, particulars of any modifications to the proposed road development,
- F47[(aa) The said notice shall inform the public that a person may question the validity of any determination by An Bord Pleanála on a proposed road development by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).
- (ab) The notice shall identify where practical information on the review mechanism can be found.]
- (b) inform the prescribed authority in Northern Ireland of his decision where a copy of the environmental impact statement was sent to it in accordance with *subsection (3) (c)*.
- F45[(6A) A notice published by the Minister pursuant to subsection (6) shall indicate the times at which, the period during which and the place where a copy of the decision and the relevant environmental impact statement may be inspected.]
- (7) (a) The person conducting—
- (i) a public local inquiry under *section 49*, or
- (ii) a local inquiry in relation to a bridge order under *section 47* of the Act of 1946, or
- (iii) a public local inquiry in relation to the compulsory acquisition of land,
- which relates wholly or partly to a proposed road development in respect of which a road authority has applied for an approval under this section shall be entitled to hear evidence in relation to the likely effects on the environment of such development.

(b) Where an application for approval under this section relates to a proposed road development, and

(i) a scheme submitted to the Minister for approval under *section 49*, or

(ii) an application submitted to the Minister for a bridge order under the Act of 1946, or

(iii) a compulsory purchase order submitted to the Minister for confirmation,

relate wholly or partly to the same proposed road development, the Minister shall make a decision on such approval and on the approval of such scheme or the making of such bridge order or the confirmation of such compulsory purchase order at the same time.

(8) (a) The European Communities (Environmental Impact Assessment) (Motorways) Regulations, 1988 (S.I. No. 221 of 1988) are hereby revoked.

(b) The European Communities (Environmental Impact Assessment) Regulations, 1989 (S.I. No. 349 of 1989) and the Local Government (Planning and Development) Regulations, 1990 (S.I. No. 25 of 1990) shall not apply to proposed road development.

F48[(9) Where the Authority makes an application for approval under subsection (2) references to road authority in subsection (3) and its following provisions of this section in respect of the application are to be read as references to the Authority.]

Annotations

Amendments:

- F40** Substituted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 9(1)(e), commenced on enactment.
- F41** Substituted (31.1.2007) by *Planning and Development (Strategic Infrastructure) Act 2006 (27/2006)*, s. 51(3), S.I. No. 684 of 2006.
- F42** Deleted (31.1.2007) by *Planning and Development (Strategic Infrastructure) Act 2006 (27/2006)*, s. 51(3), S.I. No. 684 of 2006.
- F43** Inserted (31.1.2007) by *Planning and Development (Strategic Infrastructure) Act 2006 (27/2006)*, s. 51(3), S.I. No. 684 of 2006.
- F44** Substituted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 9, commenced on enactment.
- F45** Inserted (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 14(d) and (e).
- F46** Inserted (18.09.1998) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1998* (S.I. No. 351 of 1998), reg. 14(2).
- F47** Inserted (13.07.2010) by *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010), reg. 12(2).
- F48** Inserted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 9(1)(e), commenced on enactment.

Editorial Notes:

- E49** Power pursuant to section exercised (7.03.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008).
- E50** Form for the purposes of subs. (3)(a) prescribed (7.03.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008), reg. 6 and sch. 4.

- E51** Form for the purposes of subs. (3)(b) prescribed (7.03.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008), reg. 7 and sch. 5.
- E52** Form for the purposes of subs. (3)(c) prescribed (7.03.2008) by *Roads (Schemes) (forms) Regulations 2008* (S.I. No. 49 of 2008), reg. 8 and sch. 6.
- E53** Power pursuant to section exercised (1.01.2001) by *Roads Regulations 2000* (S.I. No. 453 of 2000).
- E54** Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

Modifications (not altering text):

- C30** Application of section extended (11.03.2002) by *Planning and Development Act 2000* (30/2000), s. 227(2), S.I. No. 599 of 2001, subject to restriction in s. 227(11).

Acquisition of land etc. on foreshore.

227.—...

(2) The functions of a road authority under sections 49, 50 and 51 of the Roads Act, 1993, shall extend to the foreshore adjoining the functional area of the road authority concerned.

...

(11) This section shall not apply to any application to the Minister for the Marine and Natural Resources for a lease under section 2 of the Foreshore Act, 1933, or for a licence under section 3 of that Act made before the coming into operation of this section.

- C31** Application of section not restricted (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 216, S.I. No. 449 of 2000.

Confirmation of compulsory purchase order where there are no objections.

216.—(1) Where a compulsory purchase order is made in respect of the acquisition of land by a local authority in accordance with any of the enactments referred to in section 214 (1) and—

(a) no objections are received by the Board or the local authority, as the case may be, within the period provided for making objections,

(b) any objection received is subsequently withdrawn at any time before the Board makes its decision, or

(c) the Board is of opinion that any objection received relates exclusively to matters which can be dealt with by a property arbitrator, the Board shall, where appropriate, inform the local authority and the local authority shall, as soon as may be, confirm the order with or without modification, or it may refuse to confirm the order.

(2) Subsection (1) shall not prejudice any requirement to obtain approval for a scheme in accordance with section 49 of the Roads Act, 1993, or proposed road development in accordance with section 51 of the Roads Act, 1993, or for proposed development under section 175 of this Act.

- C32** Application of section not extended (26.02.1930) by *National Monuments Act 1930* (2/1930), s. 14, commenced on enactment, as inserted (18.07.2004) by *National Monuments (Amendment) Act 2004* (22/2004), s. 5, commenced on enactment.

Ministerial direction under section 14A and function of An Bord Pleanála.

14B.—...

(3)...

...

(b) Nothing in this section shall be construed so as to put in question any part of the scheme duly approved under section 49 of the Roads Act 1993, or of the road development duly approved under section 51 of that Act, and to which the directions of the Minister do not relate.

- C33** Application of section not extended (26.02.1930) by *National Monuments Act 1930* (2/1930), s. 23, commenced on enactment, as inserted (18.07.2004) by *National Monuments (Amendment) Act 2004* (22/2004), s. 6, commenced on enactment.

Reports of finding of archaeological objects.**23.—...**

(9) This section shall not apply—

(a) to any person who discovers an archaeological object under and in pursuance of—

...

(v) an approved road development under either or both sections 49 and 51 of the Roads Act 1993,

...

C34 Application of section extended (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 217B, S.I. No. 449 of 2000, as amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 38(4) and (5), S.I. No. 684 of 2006.

Transferred functions under this Part: supplemental provisions**217B.—...**

(4) The Board may—

(a) if it considers it necessary to do so, require a road authority that has submitted a scheme under section 49 of the Roads Act 1993 or made an application for approval under section 51 of that Act to furnish to the Board such further information in relation to—

(i) the effects on the environment of the proposed scheme or road development, or

(ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development, as the Board may specify, or

(b) if it is provisionally of the view that it would be appropriate to approve the scheme or proposed road development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of it, notify the road authority that it is of that view and invite the authority to make to the terms of the scheme or proposed road development alterations specified in the notification and, if the authority makes those alterations, to furnish to it such information (if any) as it may specify in relation to the scheme or road development, in the terms as so altered, or, where necessary, a revised environmental impact statement in respect of it.

(5) If a road authority makes the alterations to the terms of the scheme or proposed road development specified in a notification given to it under subsection (4), the terms of the scheme or road development as so altered shall be deemed to be the scheme or proposed road development for the purposes of sections 49, 50 and 51 of the Roads Act 1993.

Acquisition of land and implementation of scheme.

52.—(1) Whenever the Minister approves a scheme (with or without modifications) under *section 49*, the road authority shall thereupon be authorised to compulsorily acquire any land F49[or any substratum of land] or any rights in relation to land specified in the approved scheme and, for that purpose, the scheme shall have the same effect as if it were a compulsory purchase order in respect of that land F49[or substratum of land] or any rights in relation to land which, consequent on a decision made by the road authority, pursuant to section 10 (1) of the Local Government (No. 2) Act, 1960 (as inserted by section 86 of the Housing Act, 1966), had been duly made and confirmed.

(2) Whenever the Minister approves a scheme (with or without modifications) the road authority shall thereupon be authorised to close, stop up, remove, alter, divert or restrict an existing means of direct access (including access from a public road) to a motorway or a busway or a protected road from any land as specified in the approved scheme or from any land to a motorway or a busway or a protected road.

(3) In any case where the closing, stopping up, removing, altering, diverting or restricting of an existing means of direct access under *subsection (2)* results in the owner of any land being deprived of the only means of access from that land to any

public road or to that land from a public road, the road authority shall not close, stop up, remove, alter, divert or restrict such means of access until an alternative means of access to or from a public road has been provided.

(4) Whenever, by reason of the approval of a scheme (with or without modifications) by the Minister, direct access from any land to a public road or to any land from a public road is prohibited, closed, stopped up, removed, altered, diverted or restricted, any person who has suffered damage in consequence thereof by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of that land, shall be entitled to recover from the road authority compensation in respect of that damage:

Provided that in assessing compensation regard shall be had to any new means of access provided by the road authority and where appropriate to any existing means of access (whether restricted or otherwise) which remains.

(5) A claim for compensation under *subsection (4)* shall be made not later than six months after the date on which the scheme to which it relates was approved by the Minister and shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act, 1919, in the like manner in all respects as if such claim arose in relation to the compulsory acquisition of land, but subject to the proviso that the arbitrator shall have jurisdiction to make a nil award.

(6) A claim for compensation may be made in relation to a planning permission which is revoked or modified under a scheme approved by the Minister under *section 49* as if the revocation or modification had been made by notice under F50[*section 44 of the Act of 2000, and for the purposes of section 195 of that Act*] the road authority which made the scheme shall be deemed to be the planning authority.

F49[(7) For the purposes of subsection (1), any reference in section 10(1) (inserted by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, or in the Housing Act, 1966, to land shall include a reference to a substratum of land.

(8) For the purposes of subsection (1), the reference in section 10(4)(a) (inserted by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, to section 78 of the Housing Act, 1966, shall be construed, as respects a scheme approved under section 49, as a reference to subsections (1) and (5) of the said section 78.

(9) A scheme approved under section 49 shall come into operation—

(a) in case an application for leave to apply for judicial review relating thereto has not been made, upon the expiration of—

(i) the period of two months from the date on which notice of the decision under section 49(3) was first published, or

(ii) such period as extended by the High Court or Supreme Court under section 55A,

(b) in case such an application has been made, and has not been withdrawn, in so far as it has not been declared invalid or quashed pursuant to that review, upon the final determination of the proceedings concerned or such other date as may be determined in those proceedings, and

(c) in case such an application has been made and is withdrawn, upon the date of the withdrawal.]

Annotations**Amendments:**

- F49** Inserted (1.07.1998) by *Roads (Amendment) Act 1998* (23/1998), s. 5(a) and (b), commenced on enactment.
- F50** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Modifications (not altering text):

- C35** Application of section modified (11.07.2007) by *Roads Act 2007* (34/2007), s. 9(2), commenced on enactment.

Schemes.**9.—...**

(2) Where An Bord Pleanála approves a scheme submitted by the Authority under section 49 references to road authority contained in section 52 of the Principal Act in respect of the scheme are to be read as references to the Authority.

- C36** Application of section restricted (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 217(7)(b), (S.I. No. 449 of 2000).

Certain time limits in respect of compulsory purchase of land, etc.**217.—...****(7)...**

(b) Subsections (8) and (9) of section 52 of the Roads Act, 1993 (as inserted by section 5 of the Roads (Amendment) Act, 1998) ... shall not apply in relation to decisions of the Board under this Part.

Editorial Notes:

- E55** Form for compulsory purchase under section prescribed by *Housing Act 1966 (Acquisition of Land) Regulations 1966* (S.I. No. 278 of 1966), reg. 4(1), as inserted (10.11.1998) by *Housing Act 1966 (Acquisition of Land) (Amendment) Regulations 1998* (S.I. No. 434 of 1998), reg. 2.

Control of works by a State authority, statutory undertaker or local authority.

- 53.—(1) (a)** The powers conferred on any State authority, statutory undertaker or local authority by or under any enactment to carry out works along, adjoining, in, on, under or over any land shall not be exercised by that authority or undertaker in relation to any land comprised in a motorway, busway or protected road otherwise than with the consent of the Authority (in the case of a national road) or the Minister (in the case of a regional road or a local road).
- (b) Paragraph (a)** shall not apply to the carrying out by a road authority of any functions assigned to it by or under any enactment (including this Act) relating to the construction or maintenance of public roads.
- (c) (i)** The carrying out by a State authority, statutory undertaker or local authority of emergency works necessary to eliminate or reduce danger or risk to persons or property or of maintenance works shall not require consent under *paragraph (a)*.
- (ii)** In *subparagraph (i)* “maintenance works” includes the inspection, repair, renewal or removal of the works referred to in *paragraph (a)*, but does not include the relocation of those works.
- (iii)** A road authority may issue a direction to a State authority, statutory undertaker or local authority in relation to the works referred to in

subparagraph (i) and the authority or undertaker shall comply with this direction.

(2) The Minister may make regulations providing that before submitting an application for consent under *subsection (1)* in respect of prescribed works—

(a) a State authority, statutory undertaker or local authority shall publish in one or more newspapers circulating in the area in which the proposed works would be located a notice in the prescribed form—

(i) stating that it is proposed to apply for consent in respect of specified works,

(ii) indicating the times at which, the period (which shall be not less than one month) during which and the place where a copy of the application may be inspected,

(iii) stating that objections or representations may be made in writing to the Authority or the Minister in relation to the granting of consent before a specified date (which shall be not less than two weeks after the end of the period for inspection);

(b) the Authority or the Minister may, having considered any objections or representations made to it or him under *paragraph (a) (iii)* and not withdrawn, grant or refuse consent or grant consent subject to such conditions or restrictions as it or he considers necessary;

(c) the Authority or the Minister may at its or his discretion cause an oral hearing to be held into any objections or representations made under *paragraph (a) (iii)* and not withdrawn and shall consider the report and any recommendation of a person conducting such oral hearing before deciding whether to grant or refuse consent.

Annotations

Editorial Notes:

E56 Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

F51[Service areas (motorway schemes)]. **54.**— (1) A motorway scheme may include provision for a service area.

(2) Where a motorway scheme approved under section 49 includes provision for a service area or a service area provided under a motorway scheme is located on a motorway—

(a) the Authority — in the case of a national road, or

(b) the road authority in whose functional area the service area is to be provided or is located—

(i) in the case of a national road, with the consent of the Authority, or

(ii) in the case of a regional or local road,

may—

(I) provide or operate in the service area facilities or services for persons and vehicles using the motorway to which the scheme relates,

(II) make an agreement with any person whereby that person, either by himself or herself or jointly with the Authority or the road authority,

as the case may be, provides or operates in the service area such facilities or services.

(3) Subject to section 54A, a service area on a motorway shall not be provided or operated save in accordance with this section.

(4) The Minister may make regulations providing for the application of moneys accruing to a road authority or the Authority in respect of the exercise of its functions under this section or section 54A.

(5) (a) Only classes of vehicles prescribed under section 43(3) shall have access from a service area to a motorway.

(b) The driver of a vehicle which is not a vehicle of a class prescribed under section 43(3) who accesses with the vehicle from a service area to a motorway is guilty of an offence.]

Annotations

Amendments:

F51 Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 10(1), commenced on enactment.

Editorial Notes:

E57 Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

F52[Service areas (public roads). **54A.**— (1) In a service area—

(a) the Authority — in the case of a national road, or

(b) the road authority in whose functional area the service area is to be provided for or is located—

(i) in the case of a national road, with the consent of the Authority, or

(ii) in the case of a regional road or local road,

may—

(I) provide or operate facilities or services for persons and vehicles using the road to which the service area scheme relates, or

(II) make an agreement with another person whereby that person, either by himself or herself or jointly with the Authority or the road authority, as the case may be, provides or operates such facilities or services.

(2) Subject to section 54, a service area on a road referred to in subsection (1) shall not be provided or operated other than in accordance with that subsection.

(3) In this section ‘ service area ’ means a service area proposed or provided under a service area scheme in respect of a national, regional or local road.]

Annotations

Amendments:

F52 Inserted (11.07.2007) by *Roads Act 2007* (34/2007), s. 10(2), commenced on enactment.

F53[Offence
(service areas).

54B.— A person who, without lawful authority or the consent of the Authority or the road authority concerned, as the case may be—

(a) defaces (by writing or other means), damages or excavates a service area provided under a motorway scheme or service area scheme,

(b) places or deposits any material or thing on a service area which is a hazard or potential hazard to persons using the service area, or

(c) obstructs or interferes with access from the public road to the service area,

is guilty of an offence.]

Annotations

Amendments:

F53 Inserted (11.07.2007) by *Roads Act 2007* (34/2007), s. 10(2), commenced on enactment.

Special and emergency access to a motorway, busway or protected road.

55.—(1) Notwithstanding the provisions of this Part, a road authority may, other than for the development of land and subject to such conditions and restrictions as it thinks fit, permit direct access to or from any land adjoining a motorway or a busway or (where access has been prohibited or restricted in a protected road scheme) a protected road—

(a) by a State authority, statutory undertaker or a local authority to carry out works to which *section 53* applies,

(b) by ambulances or fire brigade vehicles,

(c) by vehicles used by members of the Garda Síochána, the Defence Forces or persons employed by local authorities in the performance of their duties as such members or employees,

(d) by any other person or vehicle where by reason of an emergency there is a serious risk to persons or property.

(2) Nothing in this Act shall prevent a road authority from having direct access to or from a motorway, a busway or a protected road for the purpose of maintaining such motorway, busway or protected road.

(3) F54[...]

(4) F54[...]

Annotations

Amendments:

F54 Deleted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Editorial Notes:

E58 Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

F55[Judicial
Review.

55A.—F56[...]

Annotations**Amendments:**

- F55** Inserted (1.07.1998) by *Roads (Amendment) Act 1998* (23/1998), s. 6, commenced on enactment.
- F56** Repealed (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 264 and sch. 6, (S.I. No. 449 of 2000), subject to transitional provisions in ss. 164 and 268(e).

Modifications (not altering text):

- C37** Section remains in force in exceptional circumstances as per F-note above.

55A.—(1) A person shall not question the validity of—

- (a) an order of the Minister under section 49(3), or
- (b) an order of the Minister under section 51(6),

otherwise than by way of an application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) (hereafter in this section referred to as ‘the Order’).

(2) An application for leave to apply for judicial review under the Order in respect of either of the matters referred to in subsection (1) shall—

- (a) be made within the period of two months commencing on the date on which notice of the decision under section 49(3) or 51(6), as the case may be, was first published, unless the High Court considers that there is good and sufficient reason for extending the period within which the application shall be made, and
- (b) be made by motion on notice (grounded in the manner specified in the Order in respect of an ex parte motion for leave) to the Minister and the road authority concerned, and such leave shall not be granted unless the High Court is satisfied that there are substantial grounds for contending that the order is invalid or ought to be quashed.

(3) The High Court may, before hearing an application referred to in subsection (2), direct that notice of the application be also served on such persons (including any person who made an objection or submission to the Minister in accordance with section 48 or 51) as the Court may specify.

(4) (a) The determination of the High Court of an application for leave to apply for judicial review as aforesaid or of an application for such judicial review shall be final and no appeal shall lie from the decision of the High Court to the Supreme Court in either case save with the leave of the High Court which leave shall only be granted where the High Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Supreme Court.

(b) This subsection shall not apply to a determination of the High Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

(5) Where an application is made for judicial review in respect of part only of an order of the Minister under section 49(3) or 51(6), the High Court may, if it so thinks fit, declare to be invalid or quash the part or any provision thereof without declaring to be invalid or quashing the remainder of the order or part, as the case may be, and if the Court does so, it may make any consequential amendments to the remainder of the order or part, as the case may be.

(6) References in this section to the Order shall be construed as including references to the Order as amended or re-enacted (with or without modification) by rules of court.

(7) This section shall not apply to proceedings initiated before the passing of the Roads (Amendment) Act, 1998.

PART V**TOLL ROADS**

Definitions for
Part V.

F57[56.— In this Part—

‘consumer-hire agreement’ and ‘hire-purchase agreement’ have the meanings assigned to them, respectively, in the Consumer Credit Act 1995;

‘default toll’ means a toll charged and payable in accordance with bye-laws under section 61 in respect of a mechanically propelled vehicle where the toll initially charged and payable in respect of that vehicle for the use of a toll road has not been paid;

‘licensing records’ means records maintained under section 60(2) (inserted by section 86 of the Finance Act 1994 as amended by section 7 of the Motor Vehicle (Duties and Licences) Act 2003) of the Finance Act 1993;

‘mechanically propelled vehicle’ has the meaning assigned to it by the Act of 1961;

‘owner’ means—

(a) in relation to a vehicle (other than a vehicle specified in paragraph (b)), the person by whom the vehicle is kept, or

(b) in relation to a vehicle which is the subject of a hire-purchase or consumer-hire agreement, the person in possession of the vehicle under the agreement;

‘registered in the State’ in relation to a vehicle, means the vehicle is entered in the register established and maintained by the Revenue Commissioners under section 131 of the Finance Act 1992 or in respect of which a licence has been taken out under section 1 of the Finance (Excise Duties) (Vehicles) Act 1952;

‘registered owner’ in relation to a vehicle, means where the vehicle—

(a) is registered in the State, the owner of the vehicle whose name is most recently entered in licensing records, or

(b) is used under a trade licence issued under section 21 of the Finance (No. 2) Act 1992, the holder of the licence;

‘road authority’ means—

(a) in the case of a national road — the Authority, and

(b) in the case of a regional road or local road — the local authority in whose functional area the road is situated;

‘road undertaking’ means, in relation to a toll road—

(a) a road authority, or

(b) where the road authority has entered into—

(i) an agreement with another person under section 63 in relation to any of the matters referred to in paragraph (e) of that section, or

(ii) an arrangement with a partner under section 3(1) of the State Authorities (Public Private Partnership Arrangements) Act 2002 in relation to any of the matters referred to in paragraph (a) of that subsection,

that other person or partner;

‘toll’ means a toll (including a default toll) chargeable under this Part;

‘toll road’ means a public road or proposed public road in respect of which a toll scheme is in force;

‘toll scheme’ means a scheme under section 57.]

Annotations**Amendments:**

F57 Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 2, commenced on enactment.

Toll schemes.

57.—F58[(1) A road authority may prepare a scheme for the establishment of a system of tolls in respect of the use of a public road.]

(2) F58[In preparing a scheme under subsection (1)], a road authority shall give special consideration to the question of exempting from tolls under the scheme pedestrians, pedal cycles, invalid carriages, vehicles specially adapted for use by physically handicapped persons and vehicles providing public passenger transport services.

(3) A F58[scheme prepared under subsection (1)] shall—

(a) specify the public road or proposed public road in respect of the use of which it is proposed to establish a system of tolls,

(b) indicate the classes of vehicles and road users for whose use the toll road is intended,

(c) indicate the classes of vehicles which and road users who will be charged tolls in respect of such use,

(d) include an estimate of the amounts of the tolls that it is proposed to charge in respect of the use of the toll road by such vehicles and road users,

F59[(e) specify the manner and method of the charging of and collection of tolls,

(f) specify such other information as the road authority making the scheme considers appropriate or the Minister prescribes by regulations.]

(4) A F58[scheme under subsection (1)] shall be accompanied by an explanatory statement outlining the provisions of the scheme and its purpose and effect and shall include (as appropriate)—

(a) information in relation to the general arrangements for the construction, maintenance and operation of the toll road to which the scheme relates and for the payment of the cost of such construction, maintenance and operation,

(b) estimates of the capital cost of the road (where appropriate) and of the capital and operating costs of tolling the road, and

(c) estimates of the volume and kind of traffic that will use the road and the amounts of the tolls in respect of such traffic.

F58[(5) A road authority may prepare a scheme amending a toll scheme adopted by it under section 58.]

(6) The making of a F58[scheme prepared under subsection (1)] in relation to a regional road or a local road shall be a reserved function.

F60[(7) (a) The Authority shall, before adopting, under section 58, a scheme prepared under subsection (1) in relation to a national road, send a copy of the scheme to the appropriate road authority under section 13 and serve a notice on the road authority stating—

(i) that a scheme under subsection (1) has been prepared, and

- (ii) that representations may be made in writing to the Authority in relation to the scheme before such date as is specified in the notice (being not less than 6 weeks from the date of service of the notice).
- (b) The Authority shall consider any representations made to it pursuant to a notice under paragraph (a).
- (c) The making of representations by a road authority under this subsection shall be a reserved function and shall be without prejudice to the right of that authority to make objections to the Authority under section 58.]

Annotations

Amendments:

- F58** Substituted (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 271(a) to (f), S.I. No. 449 of 2000.
- F59** Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 3, commenced on enactment.
- F60** Substituted (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 271(e), S.I. No. 449 of 2000.

Modifications (not altering text):

- C38** Application of section restricted (1.12.2009) by *Dublin Transport Authority Act 2008* (15/2008), s. 74(6), S.I. No. 458 of 2008.

Relationship between Authority and NRA.

74.—...

(6) Notwithstanding subsection (5), a road authority or the NRA, as the case may be, in exercising a function under Part V of the Act of 1993 in relation to a toll scheme located wholly or partly in the GDA, may only—

- (a) make a toll scheme under section 57,

...

of that Act with the consent of the Authority.

...

F61[Scheme prepared under section 57 of Roads Act, 1993, to be adopted by road authority.

58.—(1) A road authority shall publish in one or more newspapers circulating in the area where the proposed toll road is located or is to be located a notice—

- (a) stating that a draft toll scheme has been prepared,
- (b) indicating the times at which, the period (being a period of not less than one month from the first publication of the notice) during which, and the place at which a copy of the scheme prepared under section 57, any map referred to therein and the explanatory statement relating to the scheme may be inspected, and
- (c) stating that objections to the draft toll scheme may be made in writing to the road authority before such date as is specified in the notice (being not less than 2 weeks from the end of the period for inspection referred to in paragraph (b)).

- (2) (a) Subject to paragraph (b), a road authority may adopt a scheme prepared by it under subsection (1), with or without modifications and, subject to subsection (3), a scheme so adopted is hereafter in this Act referred to as a “toll scheme”.

(b) If an objection to a draft toll scheme is made to the road authority and the objection is not withdrawn, the road authority shall, before deciding whether to adopt the draft toll scheme or not, cause an oral hearing to be held into the matters to which the objection relates, by a person appointed by the road authority, and shall consider the report of and any recommendation made by the person so appointed.

(3) (a) A toll scheme adopted by the road authority under this section shall come into force with the modifications, if any, therein made by the road authority on such day as may be determined by the road authority.

(b) Notice of the day on which a toll scheme is to come into force shall be published by the road authority at least one month before such day in one or more newspapers circulating in the area in which the toll road to which the scheme relates is located or will be located.]

Annotations

Amendments:

F61 Substituted (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 272, S.I. No. 449 of 2000.

Modifications (not altering text):

C39 Application of section restricted (1.12.2009) by *Dublin Transport Authority Act 2008* (15/2008), s. 74(6), S.I. No. 458 of 2009.

Relationship between Authority and NRA.

74.—...

(6) Notwithstanding subsection (5), a road authority or the NRA, as the case may be, in exercising a function under Part V of the Act of 1993 in relation to a toll scheme located wholly or partly in the GDA, may only— ...

(b) adopt a toll scheme under section 58,

...

of that Act with the consent of the Authority.

Editorial Notes:

E59 The side note to the previous version of the section read “Approval by Minister of toll schemes”. As this no longer reflects the content of the section, the side note to the amending section is substituted.

Power to charge tolls.

59.—(1) Subject to the provisions of this Part, a road authority may charge and collect tolls of such amounts as may be specified for the time being in bye-laws made by it under *section 61* in respect of the use of a toll road.

(2) A road authority may provide and maintain such buildings, structures, works and apparatus as it considers necessary or expedient for or in connection with the charging and collection of tolls and the operation of toll roads.

(3) Where an agreement under *section 63* provides for the collection of tolls by a person specified in the agreement, that person and his servants and agents may collect the tolls to which the agreement relates.

Revocation of toll scheme.

F62[60.—(1) A road authority may by order revoke a toll scheme adopted by it under *section 58*.

(2) Where a road authority proposes to make an order under subsection (1) it shall, before so making the order, publish in one or more newspapers circulating in the area where the toll road is located a notice—

- (a) stating that it proposes to revoke the scheme,
- (b) indicating the times at which, the period (being not less than one month from the first publication of the notice) during which, and the place at which, a copy of the proposal may be inspected,
- (c) stating that objections or representations may be made in writing to the road authority in relation to the proposal before such date as is specified in the notice (being a date that falls not less than 2 weeks from the end of the period for inspection of the proposal).

(3) Before making an order under subsection (1), the road authority shall consider any objections or representations made to it in accordance with a notice under subsection (2).

(4) A road authority may at its discretion cause an oral hearing to be held into any matter to which objections or representations, made in accordance with a notice under subsection (2) and not withdrawn, relate, by a person appointed by the road authority, and where a road authority causes an oral hearing to be so held it shall, before revoking the toll scheme under subsection (3), consider the report of and any recommendation made by that person.

(5) The road authority shall publish in one or more newspapers circulating in the area where the toll road is located notice of the making of any order under subsection (1).

(6) The making of an order under this section in relation to a regional road or a local road shall be a reserved function.]

Annotations

Amendments:

F62 Substituted (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 273, S.I. No. 449 of 2000.

Modifications (not altering text):

C40 Application of section restricted (1.12.2009) by *Dublin Transport Authority Act 2008* (15/2008), s. 74(6), S.I. No. 458 of 2008.

Relationship between Authority and NRA.

74.—...

(6) Notwithstanding subsection (5), a road authority or the NRA, as the case may be, in exercising a function under Part V of the Act of 1993 in relation to a toll scheme located wholly or partly in the GDA, may only— ...

- (c) revoke a toll scheme under section 60,

...

of that Act with the consent of the Authority.

Toll bye-laws.

61.—(1) A road authority may, after consultation with the Commissioner, make such bye-laws as it considers expedient for the purposes of the operation and management of a toll road.

(2) The Authority shall consult with the appropriate road authority under *section 13* before making bye-laws in relation to a national road.

(3) Without prejudice to the generality of *subsection (1)*, bye-laws under this section may—

- (a) specify the amounts of the tolls that shall be charged, or the scales and other provisions by reference to which they shall be charged, in respect of the use of a toll road by vehicles and road users of each class specified in the bye-laws and may specify different such amounts by reference to such circumstances or combinations of circumstances (whether relating to classes of vehicles or road users, seasons of the year, days of the week, times of the day or otherwise) as the road authority may consider appropriate,
- (b) provide for the issue, inspection and collection of tickets, tokens, vouchers, permits, receipts and other forms of authorisation or payment for the use of a toll road,
- (c) F63[subject to section 64(3), specify] the persons who shall be liable to pay a toll,
- (d) provide that a person liable under the bye-laws to pay a toll shall not use, or cause or permit, any vehicle of which he is in charge to use the toll road concerned unless the toll has been paid or arrangements, to the satisfaction of the road authority concerned or of a person authorised by it to operate and manage the toll road, for its payment have been made, and
- (e) specify the powers of the road authority and of any person authorised by it to operate and manage the toll road concerned in relation to users of a toll road and vehicles and the persons in charge of them.

(4) The making of toll bye-laws in relation to a regional road or a local road shall be a reserved function.

(5) F64[...]

F65[(6) Before making bye-laws, a road authority shall publish in one or more newspapers circulating in the area where the toll road to which the bye-laws relate is located or is to be located a notice—

- (a) indicating that it is proposed to make such bye-laws and stating the purpose of the bye-laws,
- (b) indicating the times at which, the period (being a period of not less than one month from the date of the first publication of the notice) during which, and the place at which, a copy of the draft bye-laws may be inspected,
- (c) stating that objections or representations may be made in writing to the road authority in relation to the draft bye-laws before such date as is specified in the notice (being a date that falls not less than 2 weeks from the end of the period for inspection of the draft bye-laws), and
- (d) stating that a copy of the draft bye-laws may be purchased on payment of such fee as is specified in the notice not exceeding the reasonable cost incurred in the making of such copy.]

F65[(7) Before making bye-laws the road authority shall consider any objections or representations which have been made to it in accordance with a notice under subsection (6) and not withdrawn.]

F65[(8) Bye-laws made by a road authority under this section shall come into effect on such date as is specified in those bye-laws.]

(9) The bye-laws shall, as soon as may be after they have been F65[made], be published in *Iris Oifigiúil* and notice of their making, of the toll road to which they apply and of the place where copies of them may be purchased or inspected shall be

published in one or more newspapers circulating in the area where the toll road to which the bye-laws relate is located or is to be located.

F66[(10) A person who contravenes a bye-law made under this section commits an offence.]

Annotations

Amendments:

- F63** Substituted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 11 and sch., commenced on enactment.
- F64** Deleted (1.01.2001) by *Planning and Development Act 2000 (30/2000)*, s. 274(a), S.I. No. 449 of 2000.
- F65** Substituted (1.01.2001) by *Planning and Development Act 2000 (30/2000)*, s. 274(b) to (e), S.I. No. 449 of 2000.
- F66** Inserted (23.12.2001) by *Public Transport Regulation Act 2009 (37/2009)*, s. 42(1) and sch. 1, pt. 2 item 2, commenced on enactment.

Modifications (not altering text):

- C41** Application of section restricted (1.12.2009) by *Dublin Transport Authority Act 2008 (15/2008)*, s. 74(6), S.I. No. 458 of 2008.

Relationship between Authority and NRA.

74.—...

(6) Notwithstanding subsection (5), a road authority or the NRA, as the case may be, in exercising a function under Part V of the Act of 1993 in relation to a toll scheme located wholly or partly in the GDA, may only— ...

(d) make bye-laws in relation to the operation and management of a toll road under section 61 ...

...

of that Act with the consent of the Authority.

- C42** Application of section restricted (15.12.2006) by *Road Traffic Act 1994 (Control of Traffic - Exemption Permits) Regulations 2006* (S.I. No. 639 of 2006), reg. 2.

2. (1) A local authority may issue a permit to a person in respect of the driving of a mechanically propelled vehicle, which is prohibited or restricted— ...

(b) under bye-laws made under section 61 of the Roads Act 1993 (No. 14 of 1993),

from using a public road or road in a road tunnel in its functional area, exempting the permit holder, during the times (if any) specified in the permit, from the application of the prohibitions or restrictions, as specified in the permit, to such driving.

...

(3) A nil charge is prescribed for a permit issued in respect of paragraph (1)(b) and until 1 May 2007 a permit issued under paragraph (1)(a).

Exemption from tolls.

62.—The following shall be exempt from the payment of tolls—

(a) ambulances and fire brigade vehicles,

(b) vehicles used by members of the Garda Síochána or the Defence Forces in the performance of their duties as such members,

- (c) such other classes of vehicles or road users as the Minister may prescribe in relation to toll roads generally, specified classes of toll roads or specified toll roads.

Agreements for financing, maintenance, construction and operation of toll roads.

63.—(1) F67[Where a toll scheme is adopted by a road authority, the road authority may] enter into an agreement with another person under which, upon such terms and conditions as may be specified in the agreement (including the payment to, or retention by, the person of all or part of the proceeds of tolls in respect of the toll road the subject of the scheme), the person agrees to do all or one or more of the following:

- (a) to pay some or all of the cost of the construction of the road,
- (b) to pay some or all of the cost of the maintenance of the road,
- (c) to construct or join or assist in the construction of the road for or with the authority,
- (d) to maintain or join or assist in the maintenance of the road for or with the authority,
- (e) to operate and manage (including provide, supervise and operate a system of tolls F68[and their collection] in respect of the use of the road) the road for or with the authority,
- (f) such other things connected with or incidental or ancillary to or consequential upon the foregoing as may be specified in the agreement.

F69[(1A) A road authority may enter into different agreements with different persons in respect of anything referred to in subsection (1).]

(2) Without prejudice to the generality of *subsection (1)*, an agreement under this section may—

- (a) provide for the application of the proceeds of tolls, systems of accounting for tolls collected and the methods and times of payment of proceeds of tolls to the persons to whom they are to be paid under the terms of the agreement,
- (b) specify the period for which the agreement shall have effect and provide for its termination or suspension and for matters connected with or incidental or ancillary to or consequent upon the expiration of the agreement or such termination or suspension, and
- (c) provide for the giving of such security as may be specified therein—
 - (i) to the road authority by any other party to the agreement, or
 - (ii) by the road authority to any other party to the agreement,
 in relation to the carrying out and observance by that party or authority of the terms and conditions of the agreement.

(3) A road authority may F70[...] enter into an agreement with a party with whom it has entered into a previous agreement under this section amending the terms or conditions thereof, adding thereto, or deleting therefrom, terms or conditions or revoking the previous agreement.

(4) Entry into an agreement under this section in relation to a regional road or a local road shall be a reserved function.

(5) The parties to an agreement under this section shall carry out the agreement in accordance with its terms and conditions and a road authority shall have all such powers as may be necessary for that purpose.

Annotations**Amendments:**

- F67** Substituted (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 275(a), S.I. No. 449 of 2000.
- F68** Inserted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.
- F69** Inserted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.
- F70** Deleted (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 275(b), S.I. No. 449 of 2000.

Modifications (not altering text):

- C43** Application of section restricted (1.12.2009) by *Dublin Transport Authority Act 2008* (15/2008), s. 74(6), S.I. No. 458 of 2008.

Relationship between Authority and NRA.**74.—...**

(6) Notwithstanding subsection (5), a road authority or the NRA, as the case may be, in exercising a function under Part V of the Act of 1993 in relation to a toll scheme located wholly or partly in the GDA, may only— ...

(e) enter into an agreement under section 63,

...

of that Act with the consent of the Authority.

Offences under Part V.

F71[**64.— (1)** Where a toll charged and payable in respect of a mechanically propelled vehicle using a toll road is unpaid for such period specified in bye-laws under section 61, a default toll, in accordance with the bye-laws, of not more than such amount specified in the bye-laws being greater than the amount of the toll initially charged, may be charged and be payable in respect of the vehicle.

(2) Bye-laws made under section 61 may—

(a) provide that the amount of a default toll be increased by such amount where it is not paid within such period as specified in the bye-laws,

(b) take into account administrative costs in charging and collecting a default toll, or

(c) specify different amounts in respect of different classes of toll roads and different classes of vehicles.

(3) Where a toll is payable in respect of a mechanically propelled vehicle where—

F72[(a) the vehicle is registered in the State (other than in the circumstances referred to in paragraph (c))—

(i) the registered owner of the vehicle, and

(ii) the person, whom the road undertaking concerned can reasonably ascertain, keeps or has possession or charge (including arising from a leasing arrangement) of the vehicle in the State,]

(b) the vehicle is not registered in the State — the person, whom the road undertaking concerned can reasonably ascertain, owns or keeps or has possession or charge of the vehicle in the State,

(c) the registered owner or a person referred to in paragraph (b) or (d), as the case may be, on the occasion in question, was not driving or in the vehicle and had not given permission for or required another to use the vehicle and the Garda Síochána were aware or were informed of this — the person who was driving the vehicle on the occasion, or

(d) a person has entered into an agreement with the road undertaking concerned in respect of the payment of tolls in respect of the vehicle — that person,

and the driver of the vehicle, if he or she is not a person mentioned above, are jointly and severally liable to pay the toll.

(4) The amount of any toll due and payable by a person under this Part and unpaid may be recovered from the person as a simple contract debt by the road undertaking concerned in any court of competent jurisdiction.

(5) (a) Notwithstanding section 79, notice of the charge of a toll may be served on a person by the road undertaking concerned by post—

(i) at the place where the person ordinarily resides or carries on business, or

(ii) if an address for the service of such a notice has been provided by the person, that address,

or where arrangements have been made between the person and the road undertaking by such means specified (such as electronic mail) to the place or address specified, in the arrangements.

(b) In any proceedings for the recovery of a toll it shall be presumed, until the contrary is shown, that the defendant received the notice under this paragraph to which the proceedings relate and that payment of the toll has not been made.

(6) A document signed by an officer of the road undertaking concerned (authorised in that behalf by the road undertaking) stating that a mechanically propelled vehicle in respect of which the proceedings are taken for the non-payment of a toll incurred the liability to pay the toll together with any photographic or other evidence taken from a camera or other apparatus referred to in subsection (7) of the identification mark of the vehicle taken at the material time may, without proof of the signature of the officer or that the photographic or other evidence is from a camera or other apparatus referred to in that subsection, be produced in any court and in all legal proceedings and is, until the contrary is shown, evidence that a toll was incurred in respect of the vehicle. It shall not be necessary to show that the camera or other apparatus was accurate or in good working order.

(7) A road authority may approve cameras or other apparatus and the location of them, to be set up and operated by the road undertaking having charge of the collection of tolls on a toll road, for the purposes of—

(a) recording the date and time of a vehicle passing through the toll road and whether payment in respect of the vehicle for the use of the road has been discharged or incurred, and

(b) taking photographic images of the vehicle and its identification mark.

(8) A person who is liable to pay a toll and who fails, neglects or refuses to pay the toll is guilty of an offence.

(9) A person who on a toll road, fails, neglects or refuses to obey a lawful instruction or direction of a person authorised by a road undertaking to provide, operate or manage a toll road or collect or charge tolls on the road is guilty of an offence.

(10) A person who by his or her actions does any thing to avoid being charged or paying a toll while on a toll road is guilty of an offence.

(11) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both.

(12) In this section ‘identification mark’ in respect of a mechanically propelled vehicle, means the identification mark assigned to the vehicle—

(a) in the case of a vehicle registered in the State — under section 6 of the Roads Act 1920 or section 131(5) (inserted by section 102 of the Finance Act 2003) of the Finance Act 1992, or

(b) in the case of a vehicle registered in a jurisdiction outside the State — under the laws of that jurisdiction.]

Annotations

Amendments:

F71 Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 4, commenced on enactment.

F72 Substituted (23.12.2001) by *Public Transport Regulation Act 2009* (37/2009), s. 42(1) and sch. 1, pt. 2 item 3, commenced on enactment.

F73[Access to records.

64A.— (1) A road undertaking for the purposes of charging and collecting payment of tolls shall have access to and may inspect and examine licensing records and may take or be supplied with information or extracts from those records relating to the charging or payment of tolls on payment of such fee (if any) to cover the administrative costs in accessing such records.

(2) Where a road undertaking for the purposes of charging or collecting payment of a toll in respect of a vehicle using a toll road suspects that the vehicle on the occasion in question is the subject of an agreement and it is unable to ascertain from licensing records information regarding the person in possession of the vehicle under the agreement, it may require and be supplied with information from the registered owner of the vehicle regarding the person in possession of the vehicle under the agreement.

(3) Where a request is made under subsection (2), the registered owner of the vehicle the subject of the request shall, within 21 days, supply to the road undertaking making the request, where the vehicle is the subject of an agreement, the name and address of the person in possession of the vehicle under the agreement, on the occasion in question, to which the request relates.

(4) A person who in supplying information under subsection (3) gives false or misleading information is guilty of an offence.

(5) Where a registered owner fails or refuses to give information to a road undertaking for the purposes of this section the registered owner is presumed, until the contrary is shown, to have had possession of the vehicle on the occasion in question and is liable to pay the toll concerned.

(6) In this section ‘agreement’ means a hire-purchase agreement or a consumer-hire agreement, as the case may be.]

Annotations**Amendments:**

F73 Inserted (11.07.2007) by *Roads Act 2007* (34/2007), s. 5, commenced on enactment.

Toll regulations. **65.**—The Minister may make regulations—

(a) for the purposes of this Part and for enabling this Part and any toll scheme under F74[*section 58*], or agreement under *section 63*, to have full effect, and

(b) providing for the application of any moneys accruing to a road authority from the exercise of its functions under this Part.

Annotations**Amendments:**

F74 Substituted (1.01.2001) by *Planning and Development Act 2000* (30/2000), s. 276, S.I. No. 449 of 2000.

Modifications (not altering text):

C44 Term “Minister” construed (1.12.2009) by *Dublin Transport Authority Act 2008* (15/2008), s. 74(7), S.I. No. 458 of 2009.

Relationship between Authority and NRA.

74.— ...

(7) A reference in section 65 and section 66A (inserted by section 277 of the Act of 2000) of the Act of 1993 to the Minister, where it relates to a toll scheme wholly or partly in the GDA, is to be read as a reference to the Authority.

Continuance of existing schemes, bye-laws and agreements.

66.—(1) Notwithstanding the repeal of the Act of 1979 by this Act—

(a) every agreement entered into under section 9 of that Act and every toll scheme or bye-law made by a road authority under that Act and in force immediately before such repeal shall continue in force as if made or entered into under this Part,

(b) every agreement entered into by a road authority under section 10 of that Act and in force immediately before such repeal shall continue in force as if entered into under section 59 of the Act of 1955 and the provisions of *section 14* of this Act (other than *subsection (7)* thereof) shall apply to such agreement.

(2) On the commencement of this section, any agreement entered into or any scheme or bye-law made under the Act of 1979 shall, where such agreement, scheme or bye-law relates to a national road, be deemed to have been entered into or made by the Authority and with effect from such commencement all functions, rights and liabilities of the road authority concerned in relation to such agreement, scheme or bye-law shall transfer to the Authority.

F75[Ministerial policy directives on road tolling.

66A.—(1) The Minister may, from time to time, issue policy directives to road authorities regarding the exercise of any of their functions under Part V or any matter connected therewith and road authorities shall comply with any such directives.

(2) The Minister may revoke or amend a policy directive issued under this section.

(3) The Minister shall cause a copy of any policy directive issued under this section to be laid before each House of the Oireachtas.

(4) A road authority shall make available for inspection by members of the public any policy directive issued to it under this section.

(5) The Minister shall not issue a directive relating to a particular tolling scheme.]

Annotations

Amendments:

F75 Inserted (1.01.2001) by *Planning and Development Act 2000 (30/2000)*, s. 277, S.I. No. 449 of 2000.

Modifications (not altering text):

C45 Term “Minister” construed (1.12.2009) by *Dublin Transport Authority Act 2008 (15/2008)*, s. 74(7), S.I. No. 458 of 2009.

Relationship between Authority and NRA.

74.— ...

(7) A reference in section 65 and section 66A (inserted by section 277 of the Act of 2000) of the Act of 1993 to the Minister, where it relates to a toll scheme wholly or partly in the GDA, is to be read as a reference to the Authority.

F76[Continuance of existing schemes, bye-laws and agreements.

66B.—Notwithstanding this Part, every agreement entered into and every toll scheme or bye-law made by a road authority and in force immediately before the commencement of this section shall continue in force as if made or entered into under this Part as amended by the *Planning and Development Act, 2000*.]

Annotations

Amendments:

F76 Inserted (1.01.2001) by *Planning and Development Act 2000 (30/2000)*, s. 277, S.I. No. 449 of 2000.

F77[Transitional provisions regarding toll schemes.

66C.—Where, before the commencement of *Part XX* of the *Planning and Development Act, 2000*, any toll scheme, proposal to revoke a toll scheme or bye-law has been submitted to the Minister under Part V and the matter has not been determined by the Minister, the determination of the matter shall continue to rest with the Minister and Part V as amended by *Part XX* of the *Planning and Development Act, 2000*, shall not apply with respect to the matter.]

Annotations

Amendments:

F77 Inserted (1.01.2001) by *Planning and Development Act 2000 (30/2000)*, s. 277, S.I. No. 449 of 2000.

PART VI

MISCELLANEOUS

Road users' duty of care.

67.—(1) It shall be the duty of a person using a public road to take reasonable care for his own safety and for that of any other person using the public road.

(2) It shall be the duty of a person using a public road to take all reasonable measures to avoid—

(a) injury to himself or to any other person using the public road,

(b) damage to property owned or used by him or by any other person using the public road.

Cycleways.

68.—(1) In this section “cycleway” means a public road or proposed public road reserved for the exclusive use of pedal cyclists or pedal cyclists and pedestrians.

(2) (a) A road authority may construct (or otherwise provide) and maintain a cycleway.

(b) Where a road authority constructs or otherwise provides a cycleway it shall by order declare either—

(i) that the cycleway is for the exclusive use of pedal cyclists, or

(ii) that the cycleway is for the exclusive use of pedal cyclists and pedestrians.

(c) Any person who uses a cycleway in contravention of an order under *paragraph (b)* shall be guilty of an offence.

Temporary dwellings on national roads, etc.

69.—(1) (a) Any person who without lawful authority erects, places or retains a temporary dwelling on a national road, motorway, busway or protected road shall be guilty of an offence.

(b) Any person who without lawful authority or the consent of a road authority erects, places or retains a temporary dwelling on any other prescribed road or prescribed class, subclass or type of road shall be guilty of an offence.

(c) A consent under *paragraph (b)* may be given by the road authority subject to such conditions, restrictions or requirements as it thinks fit and any person who fails to comply with such conditions, restrictions or requirements shall be guilty of an offence.

(2) An authorised person may remove a temporary dwelling from a national road, motorway, busway, protected road or any other prescribed road or prescribed class, subclass or type of road.

(3) An authorised person may store, or procure the storage of, a temporary dwelling removed by him under *subsection (2)*.

(4) Where the name and address of the owner of a temporary dwelling removed and stored under this section can be ascertained by reasonable inquiry, the road authority concerned or the Commissioner shall serve a notice upon the owner informing him of the removal and storage and of the address of the place where the temporary dwelling may be claimed and recovered, requiring him to claim and recover it within one month of the date of the service of the notice and informing him of the statutory consequences of his failure to do so.

(5) A temporary dwelling removed and stored under this section shall be given to a person claiming the temporary dwelling if, but only if, he makes a declaration in writing that he is the owner of the temporary dwelling or is authorised by its owner to claim it and, at the discretion of the road authority concerned or the Commissioner, pays the amount of the expenditure reasonably incurred in removing and storing the temporary dwelling.

(6) The road authority concerned or the Commissioner may dispose, or procure the disposal, of a temporary dwelling removed and stored under this section if—

- (a) the owner of the temporary dwelling fails to claim it and remove it from the place where it is stored within one month of the date on which a notice under *subsection (4)* was served on him, or
- (b) the name and address of the owner of the temporary dwelling cannot be ascertained by reasonable inquiry.

(7) A temporary dwelling shall not be disposed of under this section within six weeks of the date of its removal under this section.

(8) The provisions of this section are without prejudice to the functions of a public authority under any other enactment.

(9) In this section—

“authorised person” means—

- (a) a person authorised in writing by a road authority for the purposes of this section;
- (b) a member of the Garda Síochána;

“temporary dwelling” means any tent, caravan, mobile home, vehicle or other structure or thing (whether on wheels or not) which is capable of being moved from one place to another (whether by towing, transport on a vehicle or trailer, or otherwise), and—

- (a) is used for human habitation, either permanently or from time to time, or
- (b) was designed, constructed or adapted for such use,

but does not include any such temporary dwelling—

- (i) used by a State authority, road authority, local authority or a statutory undertaker during the course of works on, in or under a national road, motorway, busway, protected road, or any other prescribed road or prescribed class, subclass or type of road, or
- (ii) used in connection with a fire or other emergency.

Dangerous structures, trees, etc.

70.—(1) (a) The owner or occupier of any structure and the owner or occupier of any land on which a structure is situated shall take all reasonable steps to ensure that the structure or the use of the structure is not a hazard or potential hazard to persons using a public road and that it does not obstruct or interfere with the safe use of a public road or the maintenance of a public road.

(b) Where a structure or the use of a structure is a hazard or potential hazard to persons using a public road or where it obstructs or interferes with the safe use of a public road or with the maintenance of a public road, a road authority may serve a notice in writing on the owner or occupier of the structure or on the owner or occupier of any land on which the structure is situated to remove, modify or carry out specified works in relation to the structure within the period stated in the notice.

(2) (a) The owner or occupier of land shall take all reasonable steps to ensure that a tree, shrub, hedge or other vegetation on the land is not a hazard or potential hazard to persons using a public road and that it does not obstruct or interfere with the safe use of a public road or the maintenance of a public road.

- (b) Where a tree, shrub, hedge or other vegetation is a hazard or potential hazard to persons using a public road or where it obstructs or interferes with the safe use of a public road or with the maintenance of a public road, a road authority may serve a notice in writing on the owner or occupier of the land on which such tree, shrub, hedge or other vegetation is situated requiring the preservation, felling, cutting, lopping, trimming or removal of such tree, shrub, hedge or other vegetation within the period stated in the notice.
- (3) (a) A person on whom a notice under *subsection (1) or (2)* has been served may, within fourteen days from the date of service, appeal against the notice to the District Court on any one or more of the following grounds:
- (i) that he is not the owner or occupier of the structure,
 - (ii) that he is not the owner or occupier of the land on which the structure, tree, shrub, hedge or other vegetation is situated,
 - (iii) that the structure (or the use of such structure), tree, shrub, hedge or other vegetation, as the case may be, is not a hazard or potential hazard to persons using a public road or does not obstruct or interfere with the safe use of a public road or the maintenance of a public road,
 - (iv) that compliance with the requirements of the notice would involve unreasonable expense,
 - (v) that the notice specified an unreasonably short time for complying with its requirements or any of them.
- (b) Notice of the appeal shall be given to the road authority and that authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.
- (4) (a) On the hearing of the appeal the Court may, as it thinks proper, either—
- (i) confirm the notice unconditionally, or
 - (ii) confirm the notice subject to such modifications, alterations or additions as the Court thinks reasonable, or
 - (iii) annul the notice.
- (b) Where the Court confirms the notice, subject to modifications, alterations or additions, the notice shall have effect subject to such modifications, alterations or additions.
- (5) (a) The jurisdiction conferred on the District Court by this section shall be exercised by the Judge of that Court having jurisdiction in the district in which the structure referred to in *subsection (1)* or the land referred to in *subsection (1) or (2)* is situated.
- (b) No appeal shall lie to the Circuit Court from a decision of the District Court under this section.
- (6) A notice under *subsection (1) or (2)* shall not have effect until—
- (a) the expiration of fourteen days from the date of service of the notice, or
 - (b) if an appeal is taken and the notice is confirmed, with or without modifications, the date upon which the decision of the Court is pronounced or the date upon which the order of the Court is expressed to take effect, whichever is the later.
- (7) An owner or occupier who fails to comply with a notice under this section shall be guilty of an offence.

(8) Where an owner or occupier fails to comply with a notice under this section, the road authority may take the action specified in the notice or such other action as it thinks fit.

(9) Where a road authority considers that a structure (or the use of such structure), tree, shrub, hedge or other vegetation presents an immediate and serious hazard to persons using a public road it may, notwithstanding the provisions of *subsections (1) to (8)*, take immediate action to reduce or remove the hazard.

(10) Where a road authority takes action under *subsection (8) or (9)* it may recover any reasonable costs incurred by it from the owner or occupier as a simple contract debt in any court of competent jurisdiction.

(11) Where a road authority has entered or proposes to enter on any land under *subsection (8) or (9)*, it shall as soon as may be serve on the owner or the occupier of the land, a notice stating that it has entered or proposes to enter on the land and specifying the action that it has taken or proposes to take thereon.

(12) (a) Where a person takes action—

(i) to remove, modify or carry out specified works in relation to a structure,
or

(ii) to preserve, fell, cut, lop, trim or remove any tree, shrub, hedge or other vegetation to which this section relates,

he shall take all reasonable measures to ensure as far as is reasonably practicable the safety of persons using a public road.

(b) A person who contravenes this subsection shall be guilty of an offence.

F78[(13) In this section ‘structure’ means a structure (whether fixed or moveable) and includes any apparatus, object or thing which is attached or fixed to or connected with the structure.]

Annotations

Amendments:

F78 Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Unauthorised signs, caravans, vehicles, etc. on public roads.

71.—(1) (a) Any person who, without lawful authority or the consent of a road authority—

(i) erects, places or retains a sign on a public road, or

(ii) erects, places or retains on a public road any caravan, vehicle or other structure or thing (whether on wheels or not) used for the purposes of advertising, the sale of goods, the provision of services or other similar purpose,

shall be guilty of an offence.

(b) A consent under *paragraph (a)* may be given by the road authority subject to such conditions, restrictions or requirements as it thinks fit and any person who fails to comply with such conditions, restrictions or requirements shall be guilty of an offence.

(2) Without prejudice to the liability of any person under *subsection (1)*, where there is a contravention of that subsection in the case of any sign or advertisement, the person on whose behalf the sign or advertisement is exhibited shall be deemed also to have contravened that subsection.

(3) Notwithstanding any other enactment, an authorised person may remove a sign, caravan, vehicle or other structure or thing to which *subsection (1)* applies.

(4) An authorised person may store, or procure the storage of, a sign, caravan, vehicle or other structure or thing removed by him under *subsection (3)*.

(5) Where the name and address of the owner of a sign, caravan, vehicle or other structure or thing removed and stored under this section can be ascertained by reasonable inquiry, the road authority or the Commissioner shall serve a notice upon the owner informing him of its removal and storage and of the address of the place where it may be claimed and recovered, requiring him to claim and recover it within one month of the date of the service of the notice and informing him of the statutory consequences of his failure to do so.

(6) A sign, caravan, vehicle or other structure or thing removed and stored under this section shall be given to a person claiming it if, but only if, he makes a declaration in writing that he is the owner of the sign, caravan, vehicle or other structure or thing or is authorised by its owner to claim it and, at the discretion of the road authority concerned or the Commissioner, pays the amount of the expenditure reasonably incurred in removing and storing it.

(7) The road authority concerned or the Commissioner may dispose, or procure the disposal, of a sign, caravan, vehicle or other structure or thing removed and stored under this section if—

(a) the owner of the sign, caravan, vehicle or other structure or thing fails to claim it and remove it from the place where it is stored within one month of the date on which a notice under *subsection (5)* was served on him, or

(b) the name and address of the owner of the sign, caravan, vehicle or other structure or thing cannot be ascertained by reasonable inquiry.

(8) A sign, caravan, vehicle or other structure or thing shall not be disposed of under this section within six weeks of the date of its removal under this section.

(9) In this section—

“authorised person” means—

(a) a person authorised in writing by a road authority for the purposes of this section,

(b) a member of the Garda Síochána;

“sign” includes any sign, hoarding or other structure used for the purposes of advertising.

(10) This section shall not apply to a sign which relates to a presidential election within the meaning of the Presidential Elections Act, 1937, a general election or a bye-election, within the meaning, in each case, of the Electoral Act, 1923, a local election, a referendum, within the meaning of the Referendum Act, 1942, or an election of members of the European Parliament, unless the sign has been in position for seven days or longer after the latest day upon which the poll was taken for the election, bye-election or referendum concerned.

Skips.

72.—(1) A road authority may, after consultation with the Commissioner, make bye-laws to regulate and control skips on public roads.

(2) Without prejudice to the generality of *subsection (1)*, bye-laws under this section may—

(a) specify the area or areas to which the bye-laws relate;

(b) specify requirements in relation to—

- (i) the siting and removal of skips,
 - (ii) the dimensions and other characteristics of skips,
 - (iii) the lighting and marking of skips for the purpose of making them readily visible to road users,
 - (iv) the care and disposal of the contents of skips,
 - (v) the period of deposit of skips on public roads,
 - (vi) the earliest practicable removal of skips once full,
 - (vii) the clear and indelible marking of skips with the name, address and telephone number of the owner or provider,
 - (viii) the giving of security or the provision of an indemnity;
- (c) provide for the issue by the road authority of licences in respect of the deposit of skips on public roads and for the payment of specified fees in respect of such licences;
- (d) provide for the attachment of conditions to licences, including conditions relating to any or all of the matters referred to in *paragraph (b)*.
- (3) Before making bye-laws under *subsection (1)*, a road authority shall—
- (a) publish a notice in one or more newspapers circulating in the area to which the bye-laws relate—
 - (i) indicating that it is proposed to make bye-laws,
 - (ii) indicating the times at which, the period (which shall be not less than one month) during which and the place where a copy of the draft bye-laws may be inspected,
 - (iii) stating that objections or representations may be made in writing to the road authority in relation to the draft bye-laws before a specified date (which shall be not less than two weeks after the end of the period for inspection) and stating that persons making such objections or representations may make a request in writing to state their case at an oral hearing conducted by a person appointed by the road authority for that purpose,
 - (iv) stating that a copy of the draft bye-laws may be purchased on payment of a specified fee not exceeding the reasonable cost of making such copy;
 - (b) consider any objections or representations made to it under *paragraph (a)* and not withdrawn;
 - (c) if it considers it appropriate, afford an opportunity to persons making objections or representations and who so request in writing to state their case at an oral hearing conducted by a person appointed by the road authority and consider the report and any recommendation of the person so appointed.
- (4) The making of bye-laws under *subsection (1)* and the consideration of objections or representations under *subsection (3)* shall be reserved functions.
- (5) The bye-laws shall, as soon as may be after they have been made, be published in *Iris Oifigiúil* and notice of their making and of the place where copies of them may be purchased or inspected shall be published in one or more newspapers circulating in the area to which the bye-laws relate.
- (6) Any person who contravenes a bye-law under this section which is deemed to be a penal bye-law shall be guilty of an offence.

(7) An authorised person may—

(a) remove or reposition a skip which contravenes bye-laws made under *subsection (1)*,

(b) notwithstanding the provisions of such bye-laws or of a licence issued under them, remove or reposition a skip which he considers presents an immediate and serious hazard to persons using a public road.

(8) An authorised person may store, or procure the storage of, a skip removed by him under *subsection (7)*.

(9) Where the name and address of the owner of a skip removed and stored under this section can be ascertained by reasonable inquiry, the road authority concerned or the Commissioner shall serve a notice upon the owner informing him of the removal and storage and of the address of the place where the skip may be claimed and recovered, requiring him to claim and recover it within one month of the date of the service of the notice and informing him of the statutory consequences of his failure to do so.

(10) A skip removed and stored under this section shall be given to a person claiming the skip if, but only if, he makes a declaration in writing that he is the owner of the skip or is authorised by its owner to claim it and, at the discretion of the road authority concerned or the Commissioner, pays the amount of the expenditure reasonably incurred in removing and storing the skip.

(11) The road authority concerned or the Commissioner may dispose, or procure the disposal, of a skip removed and stored under this section if—

(a) the owner of the skip fails to claim it and remove it from the place where it is stored within one month of the date on which a notice under *subsection (9)* was served on him, or

(b) the name and address of the owner of the skip cannot be ascertained by reasonable inquiry.

(12) A skip shall not be disposed of under this section within six weeks of the date of its removal under this section.

(13) In this section—

“authorised person” means—

(a) a person authorised in writing by a road authority for the purposes of this section;

(b) a member of the Garda Síochána;

“skip” means a container used for the storage or removal of builder's materials, rubble, waste, rubbish or other materials and which is designed to be transported by means of a mechanically propelled vehicle (as defined in the Act of 1961).

Annotations

Modifications (not altering text):

C46 Application of section affected (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 19(2).

Conditions regarding the use of skips.

19. ...

(2) For the purposes of sub-article (1), notwithstanding the provisions of any bye-law made under section 72 of the Roads Act 1993, conditions may include a requirement in relation to the—

- (a) carrying of reflectors or lighting of such receptacles so that they are clearly visible during a period when vehicles are required to be lighted,
- (b) siting and deposit of such receptacles on public roads, where the temporary set down of skips shall be for no more than three days,
- (c) dimensions and other characteristics of such receptacles,
- (d) care and disposal of the contents of such receptacles, and
- (e) earliest practicable removal of such receptacles when full.

Editorial Notes:

E60 Power pursuant to subs. (6) exercised (1.12.1998) by *Dún Laoghaire Rathdown County Council Bye Laws to Control Skips on Public Roads Made under the Roads Act 1993 Section 72* (S.I. No. 573 of 1998).

Extinguishment of public rights of way. **73.**—(1) Where a local authority proposes to extinguish a public right of way it shall—

- (a) publish in one or more newspapers circulating in the area where the public right of way proposed to be extinguished is located a notice indicating the times at which, the period (which shall be not less than one month) during which and the place where a map showing such public right of way may be inspected and stating that objections or representations may be made in writing to the local authority in relation to such proposal before a specified date (which shall be not less than two weeks after the end of the period for inspection) and stating that persons making such objections or representations may make a request in writing to state their case at an oral hearing conducted by a person appointed by the local authority for that purpose,
 - (b) affix a copy of such notice in a prominent position at each end of the public right of way proposed to be extinguished and leave it in place for a period or periods which shall in aggregate be not less than fourteen days,
 - (c) consider any objections or representations made to it under *paragraph (a)* and not withdrawn,
 - (d) if it considers it appropriate, afford an opportunity to persons making objections or representations and who so request in writing to state their case at an oral hearing conducted by a person appointed by the local authority and consider the report and any recommendation of the person so appointed.
- (2) (a) A local authority may make an order extinguishing the right of way specified in the notice published under *subsection (1) (a)*, or part thereof.
- (b) A local authority shall not make an order under *paragraph (a)* until it has complied with *subsection (1)*.
- (3) (a) An order under *subsection (2)* relating to a national road or a regional road shall have no effect unless and until the Minister approves the order.
- (b) The Minister may, by order, approve the order with or without modifications (or conditions) or he may refuse to approve the order.
- (c) The Minister shall consult with the Authority before making an order under this subsection relating to a national road.
- (4) (a) An order made under *subsection (2)* may—
- (i) specify a date on which the extinguishment shall come into effect,

- (ii) specify conditions (including conditions relating to the recovery of the costs referred to in *subsection (12)*) which shall be complied with before the extinguishment comes into effect.
- (b) Where an order extinguishing a public right of way made by a local authority or an order approved by the Minister with or without modifications or conditions does not specify when the extinguishment shall come into effect, the extinguishment shall come into effect—
- (i) in the case of a local road, from the date on which the order is made by the local authority,
- (ii) in the case of a national road or a regional road, from the date on which the order approving the extinguishment, with or without modifications or conditions, is made by the Minister.
- (5) Notwithstanding any other enactment, where a public right of way over a public road or a part thereof is extinguished under this section, the road authority shall no longer be responsible for the maintenance of such road or part thereof with effect from the date on which the extinguishment of the public right of way comes into effect in accordance with *subsection (4)*.
- (6) A local authority shall, without prejudice to any existing private right of way, ensure the carrying out of any works necessary—
- (a) to effect the extinguishment of a public right of way under this section,
- (b) for the safety of road users arising from the extinguishment of a public right of way,
- (c) to ensure as far as reasonably practicable that the land over which a public right of way has been extinguished does not become an eyesore.
- (7) A local authority shall, as soon as may be after the date on which a public right of way has been extinguished, publish notice of the extinguishment in the newspaper or newspapers in which notice of the proposed extinguishment was published under *subsection (1) (a)* and shall notify in writing any person who made written objections or representations to it in relation to such extinguishment.
- (8) The consideration of objections or representations and the report and any recommendation of a person appointed under *subsection (1)* and the making of an order under *subsection (2)* shall be reserved functions.
- (9) A person who, without lawful authority, removes, or damages or defaces a notice erected in accordance with *subsection (1) (b)* shall be guilty of an offence.
- (10) A person who obstructs, impedes or otherwise interferes with a public right of way or who destroys or damages a public right of way save as is provided for in law shall be guilty of an offence.
- (11) It shall be a function of a local authority to protect the right of the public to use public rights of way in its administrative area.
- (12) Where a local authority extinguishes a public right of way solely or partly to facilitate the development of land, the authority—
- (a) shall be entitled to recover from the person developing, or proposing to develop, the land all or a reasonable portion of the costs incurred by it in extinguishing such right of way,
- (b) may, by notice in writing, require the person developing, or proposing to develop, the land to carry out such works as it considers necessary to give effect to *subsection (6)*,

(c) may, where a person fails to comply with a notice under *paragraph (b)*, carry out the works specified in the notice or such other works as it considers necessary to give effect to *subsection (6)* and shall be entitled to recover any reasonable costs incurred by it in carrying out such works from the person on whom the notice was served as a simple contract debt in any court of competent jurisdiction.

(13) In this section a “local authority” means—

(a) where the public right of way to be extinguished is over a public road, a road authority,

(b) in any other case, a planning authority.

(14) This section shall not apply where the extinguishment of a public right of way is authorised by a scheme under *Part IV* or under any enactment for which the Minister for the Environment is not the appropriate Minister or under any enactment relating to the compulsory acquisition of land.

(15) Where, before the repeal under *section 4* of the enactments referred to hereunder, an application has been made to the Minister—

(a) under section 84 (4) (a) (i) of the Act of 1946, for his consent to the extinguishment of a public right of way over a road, or

(b) under section 76 of the Act of 1963, as amended by section 43 of the Act of 1976, for his approval to an order extinguishing a public right of way,

and such application has not been determined by the Minister or withdrawn, the enactment which applied before such repeal shall continue to so apply.

Road races.

74.—(1) In this section “road race” means a prescribed class of race, time trial or speed trial on a public road involving persons, vehicles or animals.

(2) A person who intends to hold, organise or promote a road race shall give at least one month's notice (or such other period of notice as may be prescribed by the Minister) in writing to the road authority and to the Superintendent of the Garda Síochána within whose district the road race is to be held.

(3) (a) A road authority may by notice in writing served on a person who intends to hold, organise or promote a road race or, where the name of that person cannot be ascertained by reasonable inquiry, by notice published in one or more newspapers circulating in the area in which the road race is to be held—

(i) prohibit the holding of the road race,

(ii) prohibit the holding of the road race unless specified conditions, restrictions or requirements are complied with,

(iii) impose specified conditions, restrictions or requirements in relation to the holding of the road race which must be complied with.

(b) The conditions under *paragraph (a)* may include the giving of security or the provision of an indemnity.

(4) Any person who contravenes *subsection (2)* or a notice under *subsection (3)* shall be guilty of an offence.

(5) A road authority may recover from a person who holds, organises or promotes a road race, as a simple contract debt in any court of competent jurisdiction, any costs reasonably incurred by it—

(a) to facilitate the holding of the road race,

(b) to repair damage to or remove defacement from the public road arising from the holding of the road race.

(6) The Minister may make regulations for the purposes of this section and such regulations may in particular make provision for—

- (a) requirements in relation to the making and consideration of objections,
- (b) requirements in relation to the giving of security or the provision of an indemnity.

Temporary closing of roads.

75.—(1) A road authority may by order—

- (a) for the purpose of facilitating a road race, within the meaning of *section 74*, or any other event,
- (b) for the purpose of facilitating the carrying out of works, or
- (c) for any other purpose,

close a public road to traffic for such specified period and subject to such specified conditions (including the giving of security or the provision of an indemnity) as it thinks fit.

(2) (a) A person who uses a public road in contravention of an order made under *subsection (1)* shall, unless he is authorised in writing by the road authority to do so, be guilty of an offence.

(b) A person who obstructs or interferes with the holding of a road race or any other event or with the carrying out of works or any activity in respect of which an order under *subsection (1)* is in force shall be guilty of an offence.

(c) A person who holds, organises or promotes a road race or other event or who carries out works or any other activity in respect of which an order under *subsection (1)* is in force and who contravenes any condition specified in that order shall be guilty of an offence.

(d) A person who without lawful authority closes a public road shall be guilty of an offence.

(3) A road authority may recover from a person who holds, organises or promotes a road race or other event or who carries out works or any other activity in respect of which an order under *subsection (1)* is in force, as a simple contract debt in any court of competent jurisdiction, any costs reasonably incurred by it—

- (a) to facilitate the holding of the road race or other event or the carrying out of works or any other activity,
- (b) to repair damage to or remove defacement from the public road arising from the holding of the road race or other event or the carrying out of works or any other activity.

(4) The Minister may make regulations for the purposes of this section and such regulations may in particular make provision for all or any of the following matters—

- (a) requirements as to notice,
- (b) requirements in relation to the making and consideration of objections,
- (c) requirements in relation to the giving of security or the provision of an indemnity.

Annotations**Modifications (not altering text):**

- C47** Application of section extended (23.12.2001) by *Transport (Railway Infrastructure) Act 2001* (55/2001), s. 63(4), commenced on enactment.

Excavation or closure of public roads.**63.—...**

(4) Where a road authority proposes to excavate or close under section 75 of the Act of 1993 a public road or part thereof on which there is a light railway it shall obtain the written views of the Agency and shall consider any written objections or representations made by the Agency and not withdrawn before carrying out any such excavation or closure.

Editorial Notes:

- E61** Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994* (S.I. No. 119 of 1994).

Drainage, etc.

76.—(1) A road authority may—

- (a) construct and maintain drains in, on, under, through or to any land for the purpose of draining water from, or preventing water flowing onto, a public road,
- (b) use any land for the temporary storage or the preparation of any gravel, stone, sand, earth or other material required for the construction or maintenance of a public road.

(2) Before entering on any land to perform a function under *subsection (1)*, a road authority shall—

- (a) at least one month before the date upon which it proposes to enter on the land, serve a notice on the owner or occupier of the land—
 - (i) stating that it proposes to enter on the land,
 - (ii) specifying the function that it proposes to perform thereon,
 - (iii) stating that objections or representations may be made in writing to the road authority in relation to the proposed performance of the function before a specified date (which shall be not less than two weeks from the date of service of the notice), and
 - (iv) informing him of his right to apply for compensation under *subsection (4)*,
- (b) consider any objections or representations made to it under *paragraph (a)* and not withdrawn.

(3) (a) Where as a result of flooding, landslide, subsidence or other emergency there is an immediate and serious hazard to persons using a public road or serious damage has been, is being or will be caused to a public road, a road authority may take immediate action to remove or reduce the hazard or prevent or reduce the damage or any further damage.

(b) In the exercise of its functions under *paragraph (a)*, a road authority may enter on any land and carry out any works or do anything which it considers necessary for the purposes of *paragraph (a)*.

(4) (a) The owner or occupier of any land who suffers damage in consequence of the exercise by a road authority of its functions under *subsection (2)* or (3)

shall be entitled to recover from the road authority compensation in respect of that damage:

Provided that in assessing compensation regard shall not be had to any existing damage caused by water draining into, onto, under, through or to the land from an existing public road but only to any additional damage resulting from the exercise by the road authority of its functions under *subsection (1) or (3)*.

(b) A claim for compensation under *paragraph (a)* shall be made not later than six months after the date on which the activity, in respect of which the claim is made, was completed and shall, in default of agreement, be determined by arbitration under the Lands Clauses Acts but subject to the proviso that the arbitrator shall have jurisdiction to make a nil award.

(5) The owner or occupier of any land adjacent to a public road shall take all reasonable steps to ensure that—

(a) water is not prevented, obstructed or impeded from draining into, onto, under, through or to his land from a public road,

(b) water, soil or other material is prevented from flowing or falling onto a public road from his land.

(6) A road authority may serve a notice in writing on the owner or occupier of any land adjacent to a public road requiring him to carry out specified works or take specified measures—

(a) to ensure that water is not prevented, obstructed or impeded from draining into, onto, under, through or to his land from a public road,

(b) to prevent water, soil or other material from flowing or falling onto a public road from his land.

(7) (a) A person on whom a notice under *subsection (6)* has been served may, within fourteen days from the date of service, appeal against the notice to the District Court on any one or more of the following grounds—

(i) that he is not the owner or occupier of the land,

(ii) that water was not and is not prevented, obstructed or impeded from draining into, onto, under, through or to his land from a public road,

(iii) that water, soil or other material was not and is not flowing or falling onto a public road from his land,

(iv) that compliance with the requirements of the notice would involve unreasonable expense,

(v) that the notice specified an unreasonably short time for complying with its requirements or any of them.

(b) Notice of the appeal shall be given to the road authority and that authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(8) (a) On the hearing of the appeal the Court may, as it thinks proper, either—

(i) confirm the notice unconditionally, or

(ii) confirm the notice subject to such modifications, alterations or additions as the Court thinks reasonable, or

(iii) annul the notice.

- (b) Where the Court confirms the notice, subject to modifications, alterations or additions, the notice shall have effect subject to such modifications, alterations or additions.
- (9) (a) The jurisdiction conferred on the District Court by this section shall be exercised by the Judge of that Court having jurisdiction in the district in which the public road referred to in *subsection (6)* is situated.
- (b) No appeal shall lie to the Circuit Court from a decision of the District Court under this section.
- (10) A notice under *subsection (6)* shall not have effect until—
- (a) the expiration of fourteen days from the date of service of the notice, or
- (b) if an appeal is taken and the notice is confirmed, with or without modifications, the date upon which the decision of the Court is pronounced or the date upon which the order of the Court is expressed to take effect, whichever is the later.
- (11) An owner or occupier who fails to comply with a notice under this section shall be guilty of an offence.
- (12) Where an owner or occupier fails to comply with a notice under this section, the road authority may take the action specified in the notice or such other action as it thinks fit.
- (13) Where a road authority considers that—
- (a) water prevented, obstructed or impeded from draining into, onto, under, through or to any land from a public road, or
- (b) water, soil or other material flowing or falling onto a public road from any land,
- presents an immediate and serious hazard to persons using a public road or has caused, is causing or will cause serious damage to a public road it may, notwithstanding the provisions of *subsections (6) to (12)*, take immediate action to remove or reduce the hazard or prevent or reduce the damage or any further damage.
- (14) Where a road authority takes action under *subsection (12)* or *(13)* it may recover any reasonable costs incurred by it from the owner or occupier as a simple contract debt in any court of competent jurisdiction.
- (15) (a) A person who, without the consent of a road authority—
- (i) within 15 metres of a public road (measured from its nearest edge) scours, deepens, widens or fills in any existing drain or excavates any new drain,
- (ii) interferes with, or carries out any works which interfere with, a bridge, culvert, retaining wall, embankment or other structure providing lateral or other support for a public road,
- shall be guilty of an offence.
- (b) A consent under *paragraph (a)* may be given by the road authority subject to such conditions, restrictions or requirements as it thinks fit and any person who fails to comply with such conditions, restrictions or requirements shall be guilty of an offence.
- (c) (i) Where a road authority considers that the carrying out, with or without its consent, of an activity referred to in *paragraph (a)* has damaged, is damaging or will damage a public road, it may serve a notice in writing on the person carrying out such activity or on the owner or occupier of the land on which such activity is being carried out requiring that the

activity cease forthwith and a person who fails to comply with a notice served on him shall be guilty of an offence.

(ii) A road authority may repair any damage and take measures to prevent or reduce any damage relating to an activity under *paragraph (a)* and may, where it has not given its consent under that paragraph, recover from the person carrying out the activity or the owner or occupier of the land, as a simple contract debt in any court of competent jurisdiction, any costs reasonably incurred by it.

(16) Where a road authority—

(a) proposes to enter on any land under *subsection (12)*,

(b) has entered or proposes to enter on any land under *subsection (3), (13) or (15)*,

it shall as soon as may be serve on the owner or occupier of the land, a notice stating that it proposes to enter or has entered on the land and specifying the action that it proposes to take or has taken thereon.

(17) In this section, “drain” includes—

(a) a ditch, channel, gutter, pipe, tunnel, culvert, soakpit, percolation area or percolation trench,

(b) a barrier to divert water into a drain.

Road traffic noise.

77.—F79[...]

Annotations

Amendments:

F79 Repealed (27.11.2009) by *Public Transport Regulation Act 2009 (37/2009)*, s. 42(1) and sch. 1, pt. 2 item 4, commenced on enactment.

Powers of inspection.

78.—(1) In this section “authorised person” means a person authorised for the purposes of this section by the Minister, the Authority or a road authority.

(2) Any authorised person shall be entitled to enter at all reasonable times (subject to his producing, if so required, his authority in writing as such person) and inspect any land or any thing on, in or under any land for the purposes of any enactment (including this Act) relating to the construction or maintenance of public roads or for any purpose incidental thereto.

(3) An authorised person shall be entitled in the performance of his functions under this section to take with him on to land such persons and equipment as he considers necessary to assist him and to carry out such surveys, investigations, excavations, borings or tests, to take samples or to do any other thing which he considers necessary for the purposes referred to in *subsection (2)*.

(4) Where an authorised person is refused entry to land in the exercise of his functions under this section the Minister, the Authority or the road authority, as the case may be, may apply to the District Court for a warrant authorising such entry.

(5) (a) If, on a claim made to the Minister, the Authority or the road authority, as the case may be, it is shown that, as a result of the exercise of any function under this section, any person has suffered damage, that person shall be entitled to be paid by the Minister, the Authority or the road authority, as

the case may be, compensation in respect of the damage and the amount of the damage may, in default of agreement, be determined by any court of competent jurisdiction.

(b) A claim under this section shall be made within (but not after)—

(i) six months after the damage is suffered, or

(ii) such longer period as the court may allow if it appears to the court that there are reasonable grounds for requiring a longer period and that it would be just and reasonable to extend the period.

Service of notices.

79.—(1) Whenever the Minister is satisfied in relation to a notice required to be served under this Act that—

(a) reasonable grounds exist for dispensing with the service of the notice, and

(b) the dispensing with the service of the notice will not cause injury or damage to any person,

he may dispense with the service of the notice and every such dispensation shall have effect according to the terms thereof.

(2) Where a notice is required or authorised by or under this Act to be served on a person, it shall be addressed to him and shall be served on or given to him in some one of the following ways:

(a) where it is addressed to him by name, by delivering it to him,

(b) by leaving it at the address at which he ordinarily resides or, in a case in which an address for service has been furnished, at that address,

(c) by sending it by post in a prepaid registered letter, or by any other form of recorded delivery service prescribed by the Minister, addressed to him at the address at which he ordinarily resides or, in a case in which an address for service has been furnished, at that address,

(d) where the address at which he ordinarily resides cannot be ascertained by reasonable inquiry and the notice is so required or authorised to be served in respect of any land, premises or structure, by delivering it to some person over sixteen years of age resident or employed on such land or premises or by affixing it in a conspicuous position on or near such land, premises or structure.

(3) Where a notice is required by or under this Act to be served on an owner or occupier of any land, premises or structure and the name of the owner or of the occupier, as the case may be, cannot be ascertained by reasonable inquiry, it may be addressed to “the owner” or “the occupier”, as the case may require, without naming him.

(4) A person who, at any time during the period of three months after a notice is affixed under *subsection (2) (d)*, removes, damages or defaces the notice without lawful authority shall be guilty of an offence.

(5) For the purposes of this section, a company within the meaning of the F80[*Companies Acts*], shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Annotations**Amendments:**

F80 Substituted (11.07.2007) by *Roads Act 2007* (34/2007), s. 11 and sch., commenced on enactment.

Offence of obstruction.

80.—A person who obstructs or impedes or assists a person to obstruct or impede the Authority or a road authority or an authorised person within the meaning of *section 69, 71, 72 or 78* in the performance of any of their functions under any enactment (including this Act) relating to the construction or maintenance of public roads shall be guilty of an offence.

Prosecution and penalties.

81.—F81[(1) (a) A person guilty of an offence under section 46(6) is liable—

(i) on summary conviction to a fine not exceeding €5,000, or

(ii) on conviction on indictment, to a fine not exceeding €250,000.

(b) A person guilty of an offence under this Act (other than section 64 or the provisions mentioned in paragraphs (a) and (c)) is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000.

(c) A person guilty of an offence under section 43(5), 44(5), 45(3), F82[61(10),] 64A(4), 68(2) or 79(4) is liable on summary conviction to a fine not exceeding €2,000.]

(2) Where an offence under this Act which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person (or any person acting on his behalf) being a director, manager, or secretary of such body, that person or the person so acting, as the case may be, shall also be guilty of that offence.

(3) (a) Save as is provided for in *paragraphs (b), (c) and (d)* of this subsection, a summary offence under any provision of this Act may be prosecuted by F83[the road authority concerned].

(b) An offence under *section 64* may be prosecuted by a road authority as defined for the purposes of *Part V*.

(c) An offence under *section 73* may be prosecuted by F83[the local authority concerned] as defined for the purposes of that section.

(d) An offence under *section 80* may be prosecuted by the Minister, the Authority or a road authority.

(4) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence to which any provision of this Act relates may be instituted within twelve months from the date of the offence.

F84[(5) Any costs of a road authority, a local authority or the Minister under this Act incurred in or in connection with the prosecution of a person for an offence under this Act for which the person is convicted may be recovered by the road authority, local authority (within the meaning of section 73) or the Minister, as the case may be, as a debt due and payable to the road authority, local authority or the Minister, as the case may be, by the convicted person.]

Annotations**Amendments:**

- F81** Inserted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 11 and sch., commenced on enactment.
- F82** Inserted (27.11.2009) by *Public Transport Regulation Act (37/2009)*, s. 42(1) and sch. 1, pt. 2, commenced on enactment.
- F83** Substituted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 11 and sch., commenced on enactment.
- F84** Inserted (11.07.2007) by *Roads Act 2007 (34/2007)*, s. 11 and sch., commenced on enactment.

Grants to road authorities.

82.—The Minister may, subject to such conditions as he sees fit, in each financial year make grants, of such amounts as may be sanctioned by the Minister for Finance out of moneys provided by the Oireachtas, to road authorities in respect of any or all of their functions under this Act or otherwise in relation to public roads.

Application of moneys.

83.—Moneys accruing to a road authority under this Act shall be applied in accordance with regulations made by the Minister.

Annotations**Editorial Notes:**

- E62** Power pursuant to section exercised (1.07.1994) by *Roads Regulations 1994 (S.I. No. 119 of 1994)*.

Disposal of proceeds of sale.

84.—Where a road authority or the Commissioner become entitled to dispose or procure the disposal of anything removed from a public road under this Act, then the authority or the Commissioner shall be entitled to sell the thing for the best price reasonably obtainable and upon doing so shall pay to the person who was the owner (where the name and address of such owner can be ascertained by reasonable inquiry) of the thing at the time of its removal a sum equal to the proceeds of such sale after deducting therefrom any expenditure reasonably incurred by the authority or the Commissioner in its removal, storage and sale.

Expenses of Minister.

85.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Section 4.

FIRST SCHEDULE

ENACTMENTS REPEALED

Session and Chapter or Number and Year	Short Title	Extent of Repeal
14 & 15 Vict. Chapter 92	Summary Jurisdiction (Ireland) Act, 1851.	Section 9, Section 10(2) to 10(6), 10(8).
17 & 18 Vict. Chapter 103	Towns Improvement (Ireland) Act, 1854.	Section 51.
31 & 32 Vict. c. xxxiii	Cork Improvement Act, 1868.	Section 131.
41 & 42 Vict. Chapter 52	Public Health (Ireland) Act, 1878.	Section 80.
53 & 54 Vict. c. cxlvi	Dublin Corporation Act, 1890.	Section 45.
59 & 60 Vict. c. cxxv	Waterford Corporation Act, 1896.	Section 71.
No. 5 of 1925	Local Government Act, 1925.	In section 1 the words "the expression 'main road' means any road which the Minister, by his order, declares to be a main road;" Part III.
No. 24 of 1946	Local Government Act, 1946.	Section 45 (4), Section 58, Section 84 (4) (a) (i), (b), Section 97.
No. 12 of 1953	Local Government Act, 1953.	The whole Act.
No. 9 of 1955	Local Government Act, 1955.	Sections 34 and 35.
No. 28 of 1963	Local Government (Planning and Development) Act, 1963.	Section 76.
No. 21 of 1966	Housing Act, 1966.	Section 83 (1).
No. 6 of 1974	Local Government (Roads and Motorways) Act, 1974.	The whole Act.
No. 20 of 1976	Local Government (Planning and Development) Act, 1976.	Section 43 (1) (i), (j).
No. 34 of 1979	Local Government (Toll Roads) Act, 1979.	The whole Act.
No. 34 of 1987	Dublin Transport Authority (Dissolution) Act, 1987.	Section 11.

Section 6.

SECOND SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

Session and Chapter or Number and Year	Short Title	Nature of Amendment
No. 13 of 1946	Forestry Act, 1946.	In section 37 (4) (e) for the words "section 34 of the Local Government Act, 1925 (No. 5 of 1925)" there shall be substituted " <i>section 70 of the Roads Act, 1993</i> ".
No. 24 of 1946	Local Government Act, 1946.	<p>In section 2, after the definition of "the Act of 1941" there shall be inserted "the expression 'the Authority' has the meaning assigned to it by the <i>Roads Act, 1993</i>".</p> <p>In section 45 (1) for the words "by resolution under this section passed by each of such authorities, establish a joint committee of their members" there shall be substituted "establish a joint committee under section 38 of the Local Government Act, 1991".</p> <p>For section 45 (2) there shall be substituted:</p> <p style="padding-left: 40px;">"(2) A resolution under the said section 38 for the establishment of a joint committee for the purposes of this section shall state the general character and purpose of the work."</p> <p>In section 45 (3) for the words "by a resolution under this section" there shall be substituted "for the purposes of this section".</p>

		<p>In section 84 (1), (2) and (3), in each place where the words "road authority" occur there shall be substituted "road authority or the Authority".</p> <p>In section 84 (1) (a) for the words "section 24 of the Local Government Act, 1925 (No. 5 of 1925)" there shall be substituted "the <i>Roads Act, 1993</i>".</p> <p>In section 84 (2) (b) for the words "section 24 of the Local Government Act, 1925" there shall be substituted "the <i>Roads Act, 1993</i>".</p>
No. 9 of 1955	Local Government Act, 1955.	In section 33 (2) for the words "to a road as defined in section 1 of the Act of 1925" there shall be substituted "to a public road as defined in section 2 of the <i>Roads Act, 1993</i> ".
No. 40 of 1960	Local Government (No. 2) Act, 1960.	<p>In section 10, inserted by section 86 of the Housing Act, 1966, to delete subsection (4) (e) and substitute: "(e) Where—</p> <p>(i) an order made by virtue of this section authorises the extinguishment of a public right of way, and</p> <p>(ii) there is an objection to the extinguishment and the objection is not withdrawn,</p> <p>the Minister shall afford an opportunity to the person making the objection to state his case at a public local inquiry save where he thinks fit not to confirm the order."</p>

No. 28 of 1963	Local Government (Planning and Development) Act, 1963.	In section 89 (10) for the words "main roads" there shall be substituted "national roads or regional roads" and for the words "main road" there shall be substituted "national road or regional road".
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Section 42.

THIRD SCHEDULE

THE NATIONAL ROADS AUTHORITY

1.—(1) The Authority shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land or an interest in or right in relation to land.

(2) The power to acquire land in *paragraph (1)* shall not extend to the acquisition of land for a national road, save as is provided for in *sections 19 (7) and 20 (5)*.

(3) Before acquiring or disposing of land or an interest therein under *paragraph (1)*, the Authority shall obtain an independent valuation of the land or interest therein.

2.—(1) As soon as may be after its establishment, the Authority shall provide itself with and retain in its possession a seal of the Authority.

(2) The seal of the Authority shall be authenticated by the signature of the Chairman or a member of the Authority authorised by the Authority to act in that behalf or by the signature of a person employed by the Authority authorised by the Authority to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Authority and every document purporting to be an instrument made by the Authority and to be sealed with the seal (purporting to be authenticated in accordance with this Schedule) of the Authority shall be received in evidence and shall be deemed to be such instrument without proof unless the contrary is shown.

3.—(1) Subject to the provisions of this Act, the Authority shall regulate, by standing orders or otherwise, its procedure or business.

(2) Notwithstanding *paragraph (1)*, the quorum for a meeting of the Authority shall be three sevenths of the membership of the Authority calculated to the nearest whole number.

4.—(1) The Authority shall, not later than the 30th day of June in each year submit to the Minister a report on the performance of its functions under this Act during the preceding year, and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

(2) The report made to the Minister under *paragraph (1)* shall contain such information as the Minister may direct regarding the functions of the Authority under this Act.

(3) The Authority shall supply the Minister with such information regarding the performance of its functions as he may from time to time require.

5.—(1) The Authority shall, in relation to each financial year, or such other period as the Minister may specify, prepare and send to the Minister (not later than a date specified by the Minister) an estimate of its total expenditure and receipts, and every such estimate shall be in such form and accompanied by such additional information relating to that estimate as the Minister may require.

(2) The Authority shall keep, in such form as may be approved of by the Minister with the consent of the Minister for Finance, all proper and usual accounts of all moneys received or expended by it and, in particular, shall keep in such form as aforesaid all such special accounts as the Minister with the consent of the Minister for Finance may from time to time direct.

(3) Accounts kept under *paragraph (2)* shall, on or before such date as the Minister shall direct, be submitted annually by the Authority to the Comptroller and Auditor General for audit and immediately after such audit a copy of the accounts and a copy of the auditor's report on the accounts shall be presented to the Minister who shall cause copies of such accounts and report to be laid before each House of the Oireachtas.

6.—The Authority may perform any of its functions through or by any of the persons employed by it or any of the persons whose services are provided to it under *section 32* duly authorised by the Authority in that behalf.

7.—(1) The Authority may from time to time appoint such and so many committees as it thinks proper.

(2) The Authority may, with the consent of the Minister, delegate to a committee appointed under *paragraph (1)* any of its functions which, in its opinion, can be better or more conveniently performed by a committee.

(3) A committee appointed under *paragraph (1)* shall consist of such number of members as the Authority thinks proper and may, at the discretion of the Authority, consist partly of persons who are members of the Authority and partly of persons who are persons employed by the Authority or whose services are provided to it under *section 32* or who are engaged as consultants or advisers by the Authority.

(4) A member of a committee appointed under *paragraph (1)* may be removed from such membership at any time by the Authority.

(5) The Authority may at any time dissolve a committee appointed under *paragraph (1)*.

(6) (a) The Authority may regulate the procedure of committees appointed under *paragraph (1)* but, subject to any such regulation, committees established under this article may regulate their own procedure.

(b) Notwithstanding *subparagraph (a)*, the quorum for a meeting of a committee appointed under *paragraph (1)* shall be three sevenths of the membership calculated to the nearest whole number.

8.—(1) The Authority may from time to time appoint one or more than one consultative group to advise the Authority in relation to any of its functions.

(2) A consultative group appointed under *paragraph (1)* shall consist of such number of persons as the Authority thinks proper and may, at the discretion of the Authority, include persons who are members of the Authority, persons who are employed by the Authority, persons whose services are provided to the Authority under *section 32*, persons who are engaged as consultants or advisers by the Authority and other persons.

(3) A member of a consultative group appointed under *paragraph (1)* may be removed from such membership at any time by the Authority.

(4) The Authority may at any time dissolve a consultative group appointed under *paragraph (1)*.

9.—The Authority may from time to time engage such consultants, advisers or other persons as it considers necessary for the discharge of its functions.

10.—The Authority may accept gifts of money, land or other property upon such trusts and conditions (if any) as may be specified by the donor, but shall not accept a gift if any such trust or condition is inconsistent with the functions of the Authority.

11.—The Authority may charge fees of such amounts as may from time to time be determined by it for or in connection with services rendered by it.

12.—(1) Where the Authority proposes to enter into a contract for construction or maintenance works on a national road rather than to arrange for the performance of that function by the relevant road authority, it shall, where the cost of the proposed contract exceeds an amount prescribed from time to time by the Minister, seek tenders before entering into such contract.

(2) (a) The Authority shall, as soon as may be after the commencement of this article, prepare draft rules specifying the procedure to be followed in regard to the seeking, reception and examination of all tenders which the Authority is required to seek by virtue of *paragraph (1)*.

(b) The draft rules made under *subparagraph (a)* shall be submitted to the Minister who may approve them, approve them with modifications or refuse to approve them.

(c) Rules approved by the Minister under *subparagraph (b)* shall come into effect on notification to the Authority of their approval.

(d) The Authority may, with the approval of the Minister, amend rules made under this paragraph.

(e) The Minister shall not give his approval under this paragraph save with the consent of the Minister for Finance.

(3) The Authority shall seek, receive and examine all tenders to which rules made under *paragraph (2)* relate in accordance with the procedure specified by such rules.