

PREAMBLE

I, Martin Cullen, Minister for Transport, in exercise of the powers conferred on me by Section 43 of the Transport (Railway Infrastructure) Act 2001, having considered an application by Coras Iompair Eireann for a Railway Order to authorise railway works affecting the Dublin-Cork railway line between Inchicore Depot, Dublin and Cherryville Junction, County Kildare, the Draft Order, the plans and the schedules to the said draft, the Environmental Impact Statement that accompanied the said application, the Report of the Public Inquiry duly held and the recommendations contained therein, any submissions duly made to me under section 40 or section 41 of the said Act of 2001 and not withdrawn, and being of opinion that the said application should be granted and being also of the opinion that the rights in over or under public roads specified in this Order with the consent of the Minister for the Environment and Local Government are necessary for giving effect to this Order hereby order as follows:-:-

PART I PRELIMINARY

ARTICLE 1 Citation

1. This Order may be cited as the Transport (Railway Infrastructure) Act 2001, (Kildare Route Project) Order 2004.

ARTICLE 2 Definitions / Interpretations

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

“Act of 1961” means the Road Traffic Act 1961;

“Act of 1993” means the Roads Act 1993;

“Act of 1994” means the Road Traffic Act 1994;

“Act of 2000” means The Planning and Development Act 2000;

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

“The Act” means the Transport (Railway Infrastructure) Act 2001;

“Apparatus” includes any sub-station, inspection chamber, junction box, booster station, pipe, sewer, drain, duct, tunnel, conduit, wire, cable, fibre, insulator, and such other thing as may be used by an Undertaker for or in connection with the provision of a service to the public.

“Construct” includes build, make, and put together:

“Deposited Plan” means the copy of the plan deposited together with this Order pursuant to section 46 of the Act;

“Execute” includes construct and maintain:

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

“Local Authority” has the meaning assigned to it by the Act of 1993;

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

“Mechanical Power” means electrical and any other motive power:

“Minister” means the Minister for Transport;

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

“Public Road” has the meaning assigned to it by the Act of 1993 but also includes any road which may become such a public road during the currency of this Order;

“Railway” means a railway or part of a railway for which railway works are authorised by this Order;

“Railway Undertaking” means the person who made the application for this Order, Coras Iompair Éireann, or a person with whom such person has made an arrangement pursuant to Section 43 (6) of the Act;

“Railway Order” means an order made under section 43 of the Act of 2001;

“Reconstruct” means wholly or partly rebuild, repair, restore, replace, alter and cognate words shall be construed accordingly;

“Road” has the meaning assigned to it by the Act of 1993 and includes “bridge”;

“Road Authority” has the meaning assigned to it by the Act of 1993;

“Substratum of land” means any subsoil or anything beneath the surface of the land required for any purpose connected with a Railway Order;

“Undertaker” means any person or body with power and authority in relation to apparatus to relocate or cause it to be relocated as provided for in Article 16.

“Works” includes railway works as defined in the Act but also includes where the context so requires or admits other works authorised by this Order including such acts or operations as are included in the meaning assigned to “works” in the definition of “railway works” contained in the Act.

2. Terms defined in the Act and used in this Order have the meanings assigned to them in the Act unless otherwise herein appears.

ARTICLE 3 **Incorporation of Enactments**

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

PART II

WORKS AND RELATED PROVISIONS

ARTICLE 4

Construction of Railway and Railway Works

1. Subject to the provisions of this Order, the Railway Undertaking may on the lines in the places and according to the levels shown on the deposited plan, construct, operate improve and maintain the railway and railway works specified in the First Schedule and all other works and things necessary or ancillary thereto.
2. Construction of the works authorised by this Order shall be completed at the end of the period of seven (7) years from the date this Order comes into force or within such further period as the Minister may allow on the application of the Railway Undertaking.
3. Paragraph 2 of this Article shall not apply to any works required for the operation or maintenance of the railway works authorised by this Order.
4. The railway may be operated by mechanical power.
5. The railway and railway works constructed under this Order shall not be brought into operation unless and until the same have been duly inspected and certified fit for the purpose by an Inspector duly appointed by the Minister under the Regulation of Railways Act 1871.

ARTICLE 5

Discharge of Water

1. The Railway Undertaking may alter the level or the course of, or make use of for the drainage of water, any surface watercourse or any sewer or drain and may construct provide and use any underground or overground tanks or pipes to assist in such drainage in connection with the construction maintenance or operation of the railway works and for that purpose may make any convenient connections with any such surface watercourse, sewer or drain, subject, however, to the following provisions:
 - (a) The Railway Undertaking shall not discharge any water into, or interfere with, any surface watercourse, sewer or drain except with the consent of the sanitary authority to which it belongs which consent shall not be unreasonably withheld or delayed and in accordance with such terms and conditions as such sanitary authority may reasonably impose;
 - (b) The Railway Undertaking shall take such steps as may be reasonably practicable to ensure that any water discharged into any such public surface watercourse, sewer or drain under the powers conferred on the Railway Undertaking by this Article is free from soil or polluting or deleterious material;
 - (c) Should any dispute occur in relation to any of the provisions of this Article between the Railway Undertaking and the sanitary authority such dispute shall be referred to arbitration in accordance with the provisions of Article 17 of this order.

ARTICLE 6

Deviation

1. In constructing and maintaining any of the railway works authorised by this Order, the Railway Undertaking may deviate horizontally from the line delineated on the deposited plans provided that no such deviation shall extend to a greater distance than the limits of deviation delineated on the said plans.
2. In constructing and maintaining any of the railway works authorised by this Order, the Railway Undertaking may deviate vertically from the levels shown on the deposited plans to any extent not exceeding one (1) metre upwards or downwards.

ARTICLE 7

Closure of Roads - Permanent and Temporary.

1. The Railway Undertaking may, for the purpose of executing the railway works authorised by this Order or for any purpose incidental thereto, from time to time request a Road Authority by order to close permanently the roads specified in the Third Schedule to traffic and to close temporarily any one or more of the public roads specified in the Fourth Schedule to traffic and the following provisions shall apply in relation to such a request:
 - (a) The Railway Undertaking shall give to the Road Authority not less than twenty-one days' prior notice in writing of its requirement to close permanently each such public road.
 - (b) The Railway Undertaking shall give to the Road Authority not less than twenty-one days' prior notice in writing of its requirement to close temporarily each such public road and such notice shall
 - (i) Specify the road which is required to be closed temporarily;
 - (ii) State the period for which, in the reasonable opinion of the Railway Undertaking, it is necessary to close temporarily such road;
 - (iii) Give particulars of any alternative route or routes if any which the Railway Undertaking believes will be available while such road is closed temporarily;
 - (iv) Contain a brief description of the works which the Railway Undertaking proposes to carry out while such road is closed temporarily.
 - (v) State whether the order closing the road is required to be subject to conditions as to whether any and if so what traffic or persons may be allowed use the road and at what times and on what if any conditions.
2. A request made to a Road Authority under this Article shall not be unreasonably refused or delayed.