

DRAFT

RAILWAY ORDER

**TRANSPORT (RAILWAY INFRASTRUCTURE) ACT 2001
(AS AMENDED AND SUBSTITUTED)**

DART+ COASTAL NORTH RAILWAY ORDER [2024]

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PREAMBLE
(Including Reasons and Considerations)

[TO BE PREPARED BY AN BORD PLEANÁLA]

AN BORD PLEANÁLA (hereinafter also referred to as the “**Board**”) in exercise of the powers conferred on it by section 43 of the Transport (Railway Infrastructure) Act 2001 as amended and substituted including by *inter alia* the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021) (hereafter also referred to as “**the 2001 Act**”)

HAVING CONSIDERED THE FOLLOWING MATTERS PRIOR TO MAKING A DECISION ON THE APPLICATION:

- (a) the application for a Railway Order made on the **[INSERT DATE]** by Córas Iompair Éireann (hereinafter referred to as the “**Applicant**”);
- (b) the draft Railway Order and documents that accompanied the application, including *inter alia* an Environmental Impact Assessment Report and Natura Impact Statement, [the report of the oral hearing held under section 42 of the 2001 Act and the recommendations contained therein];
- (c) the likely consequences for proper planning and sustainable development in the area in which it is proposed to carry out the railway works and for the environment of such works;
- (d) the matters referred to in section 143 of the Act of 2000 (as provided for in section 43 of the 2001 Act), including the following:

International Level
<ul style="list-style-type: none">• United Nations 2030 Agenda (United Nations, 2015)
EU Level
<ul style="list-style-type: none">• EU White Paper on Transport: Roadmap to a single European Transport Area - Towards a competitive and resource efficient transport system
<ul style="list-style-type: none">• Trans-European Transport Network (TEN-T)
<ul style="list-style-type: none">• Sustainable and Smart Mobility Strategy
<ul style="list-style-type: none">• European Union (EU) Green Deal 2019 Trans-European Transport Network (TEN-T)
National Level
<ul style="list-style-type: none">• Project Ireland 2040: National Planning Framework
<ul style="list-style-type: none">• National Development Plan 2021-2030
<ul style="list-style-type: none">• National Sustainable Mobility Policy

<ul style="list-style-type: none"> • National Investment Framework for Transport Planning in Ireland 2021
<ul style="list-style-type: none"> • Department of Transport: Statement of Strategy 2023-2025
<ul style="list-style-type: none"> • Climate Action and Low Carbon Development (Amendment) Act 2021
<ul style="list-style-type: none"> • Climate Action Plan 2024
<ul style="list-style-type: none"> • The White Paper, Ireland's Transition to a Low Carbon Energy Future 2015-2030
Regional Level
<ul style="list-style-type: none"> • Eastern and Midland Regional Spatial and Economic Strategy (RSES) 2019-2031
<ul style="list-style-type: none"> • Transport Strategy for the Greater Dublin Area 2022-2042
<ul style="list-style-type: none"> • Integrated Implementation Plan 2019-2024
Local Level
<ul style="list-style-type: none"> • Dublin City Development Plan 2022-2028
<ul style="list-style-type: none"> • Fingal County Development Plan 2023-2029
<ul style="list-style-type: none"> • Donabate Local Area Plan 2016 (extended to March 2026)
<ul style="list-style-type: none"> • Meath County Development Plan 2021-2027
<ul style="list-style-type: none"> • Louth County Development Plan 2021-2027

AND HAVING:

(a) **DULY TAKEN INTO ACCOUNT** the environmental impact assessment report submitted under section 37 of the 2001 Act, and any revised environmental impact assessment report submitted under section 47D of the 2001 Act, any additional information furnished to it under section 41 of the 2001 Act and, where applicable, any information submitted on foot of a notice under section 47D(4) of the 2001 Act, any submissions or observation made in relation to the likely significant effects on the environment of the activity to which the application relates duly made to it – (I) under section 40(3) or 41(4) of the 2001 Act, and not withdrawn, or (II) by an authority referred to in section 40(1)(c) or (e) of the 2001 Act, (III) on foot of a request under section 47D(1) or a notice under section 47D(6) of the 2001 Act.

(b) **CONSIDERED** any other evidence that it has obtained under Part III of the 2001 Act in relation to the likely significant effects on the environment of the activity to which the application relates.

(c) **TAKEN INTO ACCOUNT** the results of the examination referred to in paragraphs (a) and (b) above, and having reached the following reasoned conclusion on the significant effects on the environment of the activity to which the application relates.

REASONED CONCLUSION:

[TO BE PREPARED BY AN BORD PLEANÁLA AND INCLUDED IN APPENDIX X TO THIS ORDER]

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

- Environmental Impact Assessment Report and associated Appendices;
- Supporting Documents;
- Appropriate Assessment (Natura Impact Statement);
- Draft Railway Order, Book of Reference, Schedules, Plan and Drawings;
- Any additional information which may be provided prior to the close of the Oral Hearing, in the form of submissions and responses to submissions, additional information, errata, corrigenda, Briefs of Evidence, etc;
- Agreements referred to in this Railway Order and the Schedules thereto;
- The Inspector's Report (and reports of persons appointed to assist the Inspector); and
- Conditions attached by the Board set out in the Schedules.

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

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

HEREBY AUTHORISES:

The Applicant – Córas Iompair Éireann – to construct, maintain, improve and operate the railway and the railway works specified in this Order or any part thereof, in such manner and subject to

such conditions – including conditions regarding monitoring measures, parameters to be monitored and the duration of monitoring, – modifications, restrictions and requirements (and on such other terms) as the Board thinks proper and has specified in this Order,

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

**PART I
PRELIMINARY**

**ARTICLE 1
Citation**

- (1) This Order maybe cited as the “DART+ Coastal North Railway Order [2024]”.

**ARTICLE 2
Definitions/Interpretations**

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

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

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

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

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

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

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

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

“authorised works” or “works authorised by this Order” means the scheduled works and any other works authorised by this Order or any part of them and includes railway works and including those works and railway works described in all of the schedules to this Order;

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

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

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

“designated body” means an authority designated by the Minister for Transport under section 39A of the Act of 2001;

“environmental condition” means an environmental condition as defined by Section 43A of the Principal Act;

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

“environmental impact assessment” means an environmental impact assessment in relation to proposed railway works and as defined by the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021) and section 2 of the Principal Act;

“Environmental Impact Assessment Report” means an Environmental Impact Assessment Report in relation to proposed railway works and as defined by the European Union (Railway Orders) (Environmental Impact Assessment) (Amendment) Regulations 2021 (Statutory Instrument No. 743/2021) and sections 2 and 39 of the Principal Act;

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

“land” includes tenements, hereditaments, houses and buildings and any other structure, land covered by water, any estate, right or interest in or over land and includes any substratum of land or airspace over land;

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

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

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

“Local Authority” means a local authority for the purposes of the Act of 1993 and the Local Government Act 2001 (as amended and substituted);

“maintain” includes inspect, monitor, 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 Minister for Transport;

“National Road Authority” means the authority with responsibility for national roads, established under the Act of 1993 and includes the National Roads Authority operating as Transport Infrastructure Ireland as provided for in Statutory Instrument No. 297 of 2015, Roads Act 2015 (Operational Name of National Roads Authority) Order 2015;

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

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

“Plan” means the plan of the proposed railway works together with all documents which accompany the application, including works drawings/plan, property drawings/plan, structural drawings/plan, all plans submitted to the Board pursuant to section 37(3) of the Principal Act and plan deposited or to be deposited at the head office of the Railway Undertaking pursuant to section 46(a) of the Principal Act;

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

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

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

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

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

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

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

“Railway Undertaking” means Córas Iompair Éireann, the Applicant who made the application for, and was granted, this Railway Order and includes Iarnród Éireann and or a person or body with whom Córas Iompair Éireann has made an arrangement pursuant to section 43(5) of the Principal Act;

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

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

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

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

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

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

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

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

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

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

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

“works” includes any act or operation of construction, excavation, tunnelling, demolition, extension, alteration, reinstatement, reconstruction, making good, repair or renewal, environmental mitigation measures and includes railway works as defined in the 2001 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 2001 Act and the methods by which such said acts or operations are executed.

- (2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything on the land or in the stratum of land or in the airspace over the land.
- (3) Any reference in this Order to a work identified by the number of the work in the First Schedule shall be construed as a reference to the work of that number authorised by this Order.
- (4) References in this Order to any points identified by letters, with or without numbers, shall be construed as reference to the points marked on the Plan.
- (5) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “approximately” or “thereabouts” or such cognate words; were inserted after each such distance, direction and length, and distances between points on a scheduled work shall be taken to be measured along the scheduled work.
- (6) Terms assigned in the Acts defined in Paragraph (1) of this Article and used in this Order have the meanings assigned to them in those Acts unless otherwise herein appears.

ARTICLE 3
Incorporation of Enactments

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

ARTICLE 4
Designation of Railway

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

PART II
RAILWAY WORKS, WORKS AND RELATED PROVISIONS

ARTICLE 5

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

- (1) Subject to the provisions of this Order, the Railway Undertaking may, on the lines, in the places and according to the levels shown on the Plan, execute the authorised works and railway works or any part thereof, including those works described in the First Schedule and the Plan and all other Schedules hereto and all other necessary or ancillary works or things.
- (2) In executing the authorised works and railway works, the Railway Undertaking may carry out all such necessary and ancillary works including all works described in this Order and in the First Schedule and Plan to the other Schedules hereto.
- (3) The railway shall be operated by electrical or any other “mechanical or motive power”.

ARTICLE 6
Deviation

- (1) In constructing, maintaining, improving or operating any of the railway works authorised by this Order, the Railway Undertaking may make modifications so far as the Railway Undertaking considers them necessary or expedient but such that the extent of lands referenced to accommodate this Scheme and any such modifications, has been limited to *inter alia*:
 - (i) deviate laterally by a distance not exceeding 10 metres from the situations shown on the Plan for overhead electrified line structure support poles;
 - (ii) deviate laterally by a distance not exceeding 100 metres from the situations shown on the Plan for signal sighting;
 - (iii) deviate laterally a distance not exceeding 2.5 metres for proposed utilities shown on the Plan;
 - (iv) deviate the point of connection in the direction of the utility at a distance not exceeding 10 metres;
 - (v) deviate horizontally for the anchors by a distance not exceeding 20 metres from the reinforced concrete secant piles walls;
 - (vi) deviate horizontally lines by a distance not exceeding 5 metres from the situations shown on the Plan for track alignments;

(vii) deviate vertically lines by a distance not exceeding 3 metres from the situations shown on the Plan for track alignments.

(2) In executing any of the authorised works and/or railway works, the Railway Undertaking may

(a) where those works are situated on a public road —

- (i) deviate horizontally by any distance not exceeding 5 metres from the lines or situations shown on the Plan;
- (ii) deviate vertically by any distance not exceeding 2 metres upwards from the levels shown on the Plan;
- (iii) deviate vertically by any distance not exceeding 2 metres downwards from the levels shown on the Plan;
- (iv) deviate longitudinally by any distance not exceeding 20 metres.

(b) where those works form part of an underpass or are situated otherwise than in a public road —

- (i) deviate laterally by any distance not exceeding 5 metres from the lines or situations shown on the Plan;
- (ii) deviate vertically by any distance not exceeding 2 metres upwards from the levels shown on the Plan;
- (iii) deviate vertically by any distance not exceeding 2 metres downwards from the levels shown on the Plan;
- (iv) deviate longitudinally by any distance not exceeding 20 metres.

(c) where those works relate to the attachment or fixing of a bracket, cable, wire, fixture or other things to a structure, deviate in any direction by any distance not exceeding 5 metres from the situations shown on the Plan.

ARTICLE 7

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 or outfalls or culverts to assist in such drainage in connection with the construction, maintenance, improvement or operation of the works and railway and for that purpose may make any convenient

connections with any such surface watercourse, sewer or drain, subject 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 27 of this Order.

ARTICLE 8

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 Ninth Schedule to traffic and to close temporarily any one or more of the public roads specified in the Seventh Schedule, Part 1 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) Where a request is made to a Roads Authority under this Article, the consent, agreement or approval concerned must, if given, be given in writing and is not to be unreasonably withheld or delayed.

ARTICLE 9

Power to Alter Public Roads

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

(a) Alter the width of the carriageway of the road by altering the width of any footway, cycle track, verge or other land; or

(b) Alter or interfere with the level of any kerb, footway, cycleway, verge or other land or structure; or

(c) Realign the road where necessary; or

(d) Alter or interfere with a road junction and its approach roads by modifying the layout or form of junction and / or by the provision of any new traffic signals, signage, lining and lighting.

(2) Before exercising any power under paragraph (1) of this Article, the Railway Undertaking shall obtain the consent of the relevant road authority.

(3) Where a request is made to a road authority under this Article, the consent, must, if given, be given in writing and is not to be unreasonably withheld or delayed.

ARTICLE 10
Construction of New Roads

- (1) The Railway Undertaking may, with the consent of the relevant road authority, construct the new roads specified in the Eighth Schedule with all necessary works connected therewith either by way of diversion from or in substitution for an existing public road or as an additional road.
- (2) Where a request is made to a road authority under this Article, the consent, must, if given, be given in writing and is not to be unreasonably withheld or delayed.
- (3) Each new road constructed under this Article shall when completed, unless otherwise agreed between the Railway Undertaking and the road authority, be maintained by and at the expense of the Railway Undertaking for a period of 12 months from the date of its completion and at the expiration of that period shall be maintained by and at the expense of the road authority in whose functional area such new road is situated.

ARTICLE 11
Agreements between the Railway Undertaking and a road authority or other person

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

ARTICLE 12

Erection of poles and fixing of brackets, cables or other fixtures to buildings or in lands

- (1) Without prejudice to the exercise by the Railway Undertaking of its powers under section 48(1)(a)(iv) of the Principal Act, the Railway Undertaking may enter on the lands specified in the Second Schedule, Part 2 and Part 3 and may:
 - (a) erect any pole, bracket, cable, wire or other fixture thereon; or
 - (b) attach to any wall, house, building, structure thereon any pole, bracket, cable, wire or other fixture required for or in connection with the construction, operation, maintenance or improvement of the railway and may do on such lands all such other things as are, in the opinion of the Railway Undertaking, ancillary to or reasonably necessary for such purposes.
- (2) Without prejudice to the generality of paragraph (1) and the provisions of section 48 of the Principal Act, the construction, operation, maintenance or improvement of the railway may require the monitoring of the effect on any wall, house, building, structure or lands of the authorised works and the effect of the operation, maintenance or improvement of the railway.
- (3) The extent of the lands, the acquisition of which is required to undertake the works described in paragraph (1), is specified in the Second Schedule, Part 2 and Part 3.
- (4) Where any pole, bracket, cable, wire or other fixture as described in paragraph (1), is not erected within public lands or is not attached to any wall, house, building, structure on public lands, the extent of the right over lands to be acquired is specified in the Second Schedule, Part 2.
- (5) Without prejudice to the foregoing, the Railway Undertaking may from time to time and at such times as the Railway Undertaking shall determine re-enter the lands in question for the purpose of inspecting and maintaining any pole, bracket, cable, wire or other fixture described in paragraph (1) and for taking readings.
- (6) The provisions of Article 16 and Article 19 of this Railway Order shall apply, where necessary, to the powers exercised and all lands referred to in paragraphs (1) to (5) of this Article.

ARTICLE 13
Strengthening and underpinning of structures or buildings

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

ARTICLE 14
Tree Lopping

- (1) The Railway Undertaking may lop, remove or cut any tree, shrub or hedge that obstructs or interferes with any railway works authorised by this Order or the operation of the railway.
- (2) With regard to paragraph 1 above, where a tree, shrub or hedge lies on land not owned by the Railway Undertaking and for the purpose of works authorised by this Railway Order, or the operation of the railway, needs to be lopped or cut, the Railway Undertaking shall serve on the owner or occupier of the land or, in the case of a public road, on the road authority charged with the maintenance of such road, on which such tree, shrub or hedge is standing, notice in writing of its intention so to lop or cut, and, after the expiration of 28 days from the date of such service the Railway Undertaking may lop or cut any tree, shrub or hedge if the owner or occupier has not already done so.
- (3) Where an occupier or owner of land cuts or lops any tree, shrub or hedge under this Article, the reasonable expense (if any) incurred by him or her in so doing shall be paid to him or her on demand by the Railway Undertaking, and the amount of such expenses shall be recoverable from the Railway Undertaking, in default of agreement as a simple contract debt in any court of competent jurisdiction.

ARTICLE 15

Period within which the Railway Undertaking is authorised to carry out the construction of authorised and scheduled works

- (1) Subject to paragraph 2 of this Article and so far as is reasonably practicable, construction of the authorised works shall be substantially completed or carried out by the end of the period of 10 years beginning on the date on which this Order comes into operation pursuant to section 43(4) of the Principal Act or within such further period as An Bord Pleanála may allow on the application of the Railway Undertaking.

- (2) Paragraph 1 of this Article shall not apply to any works which are required for safety, inspection, monitoring or maintenance purposes in connection with the operation of the railway.

PART III
ACQUISITION AND POSSESSION OF LAND AND RIGHTS

ARTICLE 16
Power to acquire land

- (1) Subject to the Principal Act, the Railway Undertaking may acquire compulsorily and use all or such part of the lands shown on the Plan and specified in the Second Schedule (Part 1 and Part 3) as the Railway Undertaking may require for the purposes of the execution of the works authorised by this Order and the operation of the railway or for purposes incidental or ancillary thereto.
- (2) In relation to any such acquisition of land the provisions of Sections 4 and 8 of the Railways Act, 1851 shall not apply.

ARTICLE 17
Use of airspace

- (1) Without prejudice to any other Article of this Railway Order, the Railway Undertaking may enter on and use so much of the airspace over a public road as is reasonably required for the purposes of, or in connection with the execution of the authorised works and the operation, maintenance or improvement of the railway or for purposes incidental or ancillary to those purposes.
- (2) The power under paragraph (1) may be exercised in relation to a public road without the Railway Undertaking being required to acquire any part of the road or any easement or other right in relation to the surface of the road.
- (3) Where it is proposed to acquire the right to enter onto and use airspace over lands the extent of the airspace required in connection with the execution of the authorised works and the operation, maintenance or improvement of the railway or for purposes incidental or ancillary to those purposes these lands is shown on the Plan and is specified in the Second Schedule, Part 3.

ARTICLE 18
Power to temporarily acquire and occupy land

- (1) Subject to the Principal Act, the Railway Undertaking may enter upon, occupy and take temporary possession of the land shown in the Plan and specified in the Third Schedule or any part of that land, for the purpose of carrying out the authorised works.
- (2) In particular, and without prejudice to the generality of paragraph 1—
 - (a) the Railway Undertaking may—
 - (i) enter on and take temporary possession of that land for the provision of working sites and access for construction purposes or for purposes in connection with the works authorised by this Order; and
 - (ii) for those purposes, remove any structures thereon, construct other structures, cut and remove anything growing on that land or part thereof, and generally do all things to and on that land that are required to adapt it for those working sites or that access.
 - (b) where, in the exercise of the powers conferred on the Railway Undertaking by the Principal Act and this Order, a part of a building has been compulsorily acquired or interfered with for the purpose of carrying out railway works, the Railway Undertaking may enter on, and take temporary possession of, another part of that building with a view to minimising the damage or injury done or likely to be done by the acquisition or removal of, or interference with, that part of the building so acquired or interfered with.
- (3) Before giving up possession of land specified in the Third Schedule and subject to any agreement to the contrary with the owners and occupiers of the land, the Railway Undertaking shall remove all temporary works and structures constructed by it on the land and shall restore the land as far as possible to its former state.
- (4) The Railway Undertaking shall not be required to acquire any land of which it takes temporary possession pursuant to this Article.
- (5) The Railway Undertaking shall pay to the owners and occupiers of land of which it takes temporary possession under this Article compensation for any loss, injury or damage thereby suffered or expenditure thereby incurred as if that loss, injury, damage or expenditure were suffered or incurred in consequence of the exercise by the Railway Undertaking of a power

conferred upon it by section 48 of the Principal Act, and the amount of the compensation shall be determined in accordance with that section.

ARTICLE 19
Acquisition of Easements and other rights over land

- (1) Subject to the Principal Act, the Railway Undertaking may acquire compulsorily such rights over the lands, water, railways or roads shown on the Plan and specified in the Second Schedule Part 2 and the Fourth Schedule, Part 1 and Part 2 together with such rights as are necessary for the full and free exercise at all times of the acquired rights.

ARTICLE 20
Extinguishment or alteration of private rights including private rights of way and temporary interference with rights

- (1) The Railway Undertaking may extinguish or alter the private rights, including the private rights of way, shown on the Plan and specified in the Sixth Schedule and the Tenth Schedule for the purposes of the execution of the authorised works and the maintenance and operation of the railway or for purposes incidental or ancillary to those purposes.
- (2) The Railway Undertaking may temporarily interfere with or stop up the private rights, including the private rights of way, specified in the Seventh Schedule, Part 2 and the Tenth Schedule of this Order.

ARTICLE 21
Extinguishment or alteration of public rights of way and temporary interference with rights including rights of way

- (1) The Railway Undertaking may extinguish or alter the public rights of way shown on the Plan and specified in the Fifth Schedule for the purposes of the execution of the authorised works and the operation of the railway or for purposes incidental or ancillary to those purposes.
- (2) The Railway Undertaking may temporarily interfere with or stop up the public rights, including public rights of way specified in the Seventh Schedule, Part 1 of this Order.
- (3) Where a road authority accedes to a request under Article 8 to permanently close a public road, any public right of way over the said public road shall be deemed to be permanently extinguished on the close of the said public road.

- (4) Where a road authority accedes to a request under Article 8 to temporarily close a public road, any public right of way over the said public road shall be deemed to be temporarily interrupted on the close of the said public road.
- (5) Where a road authority accedes to a request under Article 9 to alter a public road, any public right of way over the said public road shall be deemed to be altered in accordance with the alteration of the said public road.

ARTICLE 22

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

- (1) The powers conferred on the Railway Undertaking by this Order compulsorily to acquire permanently land or rights over land, water or a road and the power conferred to enter upon and take temporary possession of land shall cease at the end of the period specified in the Act of 2000, section 217(6), beginning on the date on which this Order comes into operation pursuant to section 43(4) of the Principal Act.
- (2) The powers of the Railway Undertaking compulsorily to acquire land or rights over land shall, for the purposes of this Article, be deemed to have been exercised if a notice to treat has been served in respect of the land or rights over land before the end of the period mentioned in paragraph 1.
- (3) Notwithstanding paragraph 1, the Railway Undertaking shall be entitled to remain in temporary possession of land pursuant to this Order after the end of the period mentioned in paragraph 1 where possession of the land was taken before the end of that period.

**PART IV
MISCELLANEOUS AND GENERAL**

**ARTICLE 23
Interference with apparatus**

- (1) This Article applies where it appears to the Railway Undertaking, in relation to apparatus in the vicinity of a place in which it proposes to execute authorised works, that —
- (a) the functioning of the apparatus will, or is likely to, interfere with the execution of those works or the proper functioning of the railway; or
 - (b) the execution of the authorised works or the operation of the railway will, or is likely to, interfere with the proper functioning of the apparatus.
- (2) The relevant undertaker may and, upon reasonable request by the Railway Undertaking, shall without unreasonable delay do either or both of the following:
- (a) remove the apparatus and/or relocate it or other apparatus in substitution for it in such other position or location as may be agreed with the Railway Undertaking;
 - (b) take such further or other steps or make such further or other provision with the agreement of the Railway Undertaking as secures the apparatus and the authorised works and the proper functioning of each of them respectively from mutual interference or damage.
- (3) Subject to paragraph 4, the Railway Undertaking shall pay to the undertaker an amount equal to the cost reasonably incurred by the undertaker in the discharge of its obligations under paragraph 2.
- (4) Where an undertaker, in the course of the discharge of obligations under paragraph 2, unnecessarily provides, in substitution for existing apparatus, apparatus that, whether because of its type, construction, design, layout, placement or any other feature, is an improved or superior version of the existing apparatus, the sum payable by the Railway Undertaking under paragraph (3) shall not exceed the cost that would have been reasonably incurred by the undertaker if the substituted apparatus had not been an improved or superior version of the existing apparatus.

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

ARTICLE 24 **Interference with roads**

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

ARTICLE 25 **Rights of third parties to open up roads, etc.**

- (1) Subject to paragraphs (2) and (3), nothing in this Order takes away or abridges any power lawfully vested in any person to open or break up any road in which a railway is laid or to lay down, repair, alter or remove any apparatus, as defined in Article 23.
- (2) No power referred to in paragraph (1) shall be exercised so as to affect the railway or its operation without the prior consent in writing of the Railway Undertaking, which consent shall not be unreasonably withheld or delayed.
- (3) A person exercising a power to which paragraph (1) relates shall in all respects comply with any reasonable conditions specified by the Railway Undertaking as necessary for or in connection with the construction, maintenance, operation or protection of the railway.

ARTICLE 26 **Arbitration**

- (1) Paragraphs 2 to 4 apply to any dispute arising between the Railway Undertaking and any other party in relation to the execution of the authorised works or the exercise by the Railway Undertaking of the powers granted by this Order.
- (2) The Railway Undertaking and the other party shall use their best endeavours to resolve the dispute on mutually acceptable terms.
- (3) If, after such period as the Railway Undertaking or the other party considers reasonable, the dispute has not been resolved to the satisfaction of both parties, the following shall apply:

- (a) either party may, by 14 days' notice in writing to the other party, require the subject-matter of the dispute to be submitted to a single arbitrator and shall, in that notice, nominate a person to arbitrate upon the subject matter of the dispute;
 - (b) the party receiving the notice may, within that period of 14 days, by a counter-notice, either-
 - (i) accept the arbitrator nominated by the party serving the original notice; or
 - (ii) nominate at least 2 alternative persons to act as arbitrator;
 - (c) if any one of the persons nominated by the parties is acceptable to both parties, the subject-matter of the dispute shall be referred to the arbitrator as soon as may be after that person has indicated his or her willingness to act as arbitrator.
 - (d) either party may apply to the Chairman for the time being of the Irish Branch of the Chartered Institute of Arbitrators for the appointment of an arbitrator; if -
 - (i) after service of the notice and counter-notice, the parties fail to agree upon an arbitrator; or
 - (ii) the person agreed upon to be the arbitrator has failed to indicate, within 14 days of being so requested, his or her willingness to act.
 - (e) the arbitrator so appointed by the Chairman of the Irish Branch of the Chartered Institute of Arbitrators shall notify the parties in writing of his or her appointment as soon as may be thereafter and shall conduct the arbitration in accordance with the rules of the Irish Branch of that Institute.
- (4) The Arbitration Act 2010 shall apply to the arbitration and the decision of the arbitrator in relation to the dispute and all matters connected with it shall be binding on the parties.

ARTICLE 27

Agreement between the Railway Undertaking and Road Authorities and Others

- (1) The Railway Undertaking may, from time to time, enter into and carry into effect and thereafter from time to time alter, renew or vary contracts, agreements or arrangements with any one or more road authority in relation to —
 - (a) laying down, making, paving, metalling or keeping in repair any road and the railway thereon; or

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