



Number 5 of 2014

ESB (Electronic Communications Networks) Act 2014



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ACTS REFERRED TO

Acquisition of Land (Assessment of Compensation) Act 1919 (9 & 10 Geo. V, c. 57)

Companies Act 1963 (No. 33)

Electricity (Supply) (Amendment) Act 1945 (No. 12)

Electricity (Supply) Act 1927 (No. 27)

Electricity (Supply) Acts 1927 to 2004

Electricity Regulation Act 1999 (No. 23)

Gas Act 1976 (No. 30)



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ESB (ELECTRONIC COMMUNICATIONS NETWORKS) ACT 2014

An Act to enable the Electricity Supply Board to engage in electronic communications networks and electronic communications services, to define the meaning of an electric line, to change the name of Bord Gáis Éireann and to provide for related matters.

[18th March, 2014]

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act—

“Board” means Electricity Supply Board;

“company” means—

- (a) a company formed and registered under the Companies Act 1963, or
- (b) a body established under the laws of a state, other than the State, and corresponding to a body referred to in *paragraph (a)*;

“electricity infrastructure” means any transmission system or distribution system, including any electric line;

“electronic communications network” means transmission systems and, where applicable—

- (a) switching equipment or routing equipment, and
- (b) other resources,

including network elements which are not active, which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, and such conveyance includes the use of—

- (i) satellite networks,
- (ii) fixed terrestrial networks (both circuit-switched and packet-switched, including internet),
- (iii) mobile terrestrial networks,
- (iv) electricity cable systems to the extent that they are used for the purpose of transmitting signals,
- (v) networks used for either or both radio and television broadcasting, and

(vi) cable television networks,

irrespective of the type of information conveyed;

“electronic communications service” means a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting, but does not include—

- (a) services providing, or exercising editorial control over, content transmitted using electronic communications networks and services, and
- (b) information society services (within the meaning of Article 1 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998¹) which do not consist wholly or mainly in the conveyance of signals on electronic communications networks;

“Minister” means Minister for Communications, Energy and Natural Resources;

“Principal Act” means Electricity (Supply) Act 1927.

Board may engage in electronic communications networks and electronic communications services

2. The Board may engage in all or any of the businesses of—

- (a) developing electronic communications networks and electronic communications services infrastructure,
- (b) leasing, licensing, selling and otherwise providing, making use of and engaging in any service in connection with electronic communications networks and electronic communications services infrastructure, and
- (c) electronic communications networks or electronic communications services, or both, whether on a wholesale or retail basis,

in each case either alone or with any other company and shall have all such powers as may be necessary or expedient for that purpose.

Board may provide access to its electricity infrastructure to another company

3. The Board may provide to any company—

- (a) access to any electricity infrastructure of the Board to enable the company to develop electronic communications networks and electronic communications services, and
- (b) services of any nature to facilitate such development.

Electric line

4. (1) A reference to an electric line wherever it occurs in the *ESB Acts 1927 to 2014* shall

¹ OJ No. L204, 21.7.1998, p.37

be construed and have effect and be deemed always to have had effect as meaning any line which is used solely or amongst other things for carrying electricity for any purpose and as including—

- (a) any support for any such line, that is to say, any structure, pole or other thing in, on, by or from which any such line may be supported, carried or suspended,
 - (b) any apparatus connected to or associated with any such line for the purpose of carrying electricity or electronic communications services, whether such apparatus is owned by the Board or by any company referred to in *section 2* or by a company which has been provided access or services referred to in *section 3*, or
 - (c) any wire, cable, tube, pipe or similar thing (including its casing or coating) which is used for the purpose of carrying electricity or electronic communications services and which surrounds or supports or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line.
- (2) In section 51(1) of the Principal Act a reference to lines shall be read and be deemed always to have been read as a reference to electric lines (within the meaning of *subsection (1)* of this section).
 - (3) Section 2(1) of the Electricity Regulation Act 1999 is amended by substituting for the definition of “electric line” the following:

“ ‘electric line’ has the meaning assigned to it by *section 4(1)* of the *ESB (Electronic Communications Networks) Act 2014*.”.
 - (4) Subsections (2) and (3) of section 46 of the Electricity (Supply) (Amendment) Act 1945 are repealed.

Way-leaves across land by companies accessing electricity infrastructure of Board

- 5. (1) Where the Board provides access to any electricity infrastructure of the Board to a company under *section 3*, that company may, with the consent of the Commission for Energy Regulation, for the purpose of that access, exercise the powers conferred on the Board by subsections (1), (3), (4), (5) and (9) of section 53 of the Principal Act, and that section shall be read accordingly.
- (2) For the purposes of *subsection (1)* a reference in the Acquisition of Land (Assessment of Compensation) Act 1919 to a public authority includes a reference to a company referred to in *subsection (1)*.

Non-application of section 53(2) of Principal Act

- 6. Where the Board engages in any of the businesses referred to in *section 2* either alone or with another company or provides to a company access or services referred to in *section 3*, subsection (2) of section 53 of the Principal Act does not apply in respect of the business, access or service, as the case may be.

Expenses

7. The expenses incurred by the Minister in the administration of this Act, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, shall be paid out of moneys provided by the Oireachtas.

Change of name of Bord Gáis Éireann to Ervia

8. (1) The name of the body (established by section 7 of the Gas Act 1976) the present name of which is, in the Irish language, Bord Gáis Éireann and, in the English language, The Irish Gas Board, shall, on and from such day as the Minister appoints by order, be Ervia.
- (2) References in any enactment, statutory instrument, legal proceedings or any other document to Bord Gáis Éireann or The Irish Gas Board shall, on and from the day appointed under *subsection (1)*, be construed as references to Ervia.

Short title, collective citation, construction and commencement

9. (1) This Act may be cited as the ESB (Electronic Communications Networks) Act 2014.
- (2) The Electricity (Supply) Acts 1927 to 2004 and this Act may be cited together as the ESB Acts 1927 to 2014 and shall be read together as one.
- (3) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.