

TAILTE ÉIREANN BILL 2020

GENERAL SCHEME

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Board of Tailte Eireann

PART 1 – PRELIMINARY AND GENERAL

Head 1 – Short Title

Provide that:

This Act may be cited as the Tailte Éireann Act 2020.

Explanatory Note:

This is a standard provision relating to the Short Title of the Bill.

Head 2 – Commencement

Provide that:

This Act shall come 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 or different provisions.

Explanatory Note:

This is a standard provision allowing the Minister to set a commencement date for the Act.

Head 3 – Interpretation

Provide that:

“Act of 1964” means the Registration of Title Act 1964 to 2006,

“Act of 1978” means the Landlord and Tenant (Ground Rents) (No. 2) Act 1978 to 2019,

“Act of 2001” means the Valuation Acts 2001 to 2020,

“Act of 2006” means the Registration of Deeds and Title Act 2006,

“Act of 2015” means the Valuation (Amendment) Act 2015,

“Minister” means the Minister for Housing, Local Government and Heritage,

“OSi Act of 2001” means the Ordnance Survey Ireland Act 2001.

Explanatory Note:

This is a standard provision providing for interpretations in the Bill and will be adjusted as formal drafting progresses.

Head 4 – Laying of Orders and Regulations

Provide that:

- (1) The Minister may by regulation provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
- (3) Every regulation made by the Minister under this Act 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 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Explanatory Note:

Standard provision relating to the laying of Orders and Regulations before the Houses of the Oireachtas.

Head 5 – Repeals

The enactments specified in the table below are repealed to the extent specified in the third column thereof.

ACT	NAME	SECTIONS
17 Victoria, Chap. XVII	Boundary Survey (Ireland) Act 1854	The whole Act
20 & 21 Victoria, Chap. XLV	Boundaries of Land (Ireland) Act 1857	The whole Act
22 & 23 Victoria, Chap. VIII	Boundaries (Ireland) Act 1859	The whole Act
No. 16 of 1964	Registration of Title Act 1964	116(2)
No. 13 of 2001	Valuation Act 2001	4, 6, 7, 9, 10, 41
No. 43 of 2001	Ordnance Survey Ireland Act 2001	4(3)(a), 4(4), 5(2), 13, 14, 15, 16, 17, 26, 27 and other sections relative to the board of OSi. 7, 8, 9, 21 and other sections or parts thereof relative to establishment of companies subsidiaries, acquisition of shares and borrowings.
No. 12 of 2006	Registration of Deeds and Title Act 2006	7 to 26 inclusive 73(3)

Explanatory Note:

This is a standard provision relating to the repeals of enactments.

Boundary Survey (Ireland) Acts

- Tailte Éireann Bill, 2014 (Government decision dated 20.01.15) proposed that the Boundary Survey (Ireland) Acts be repealed in their entirety and replaced by provisions to re-enact elements of the 19th century legislation relating to the amendment of maritime boundaries.
- *Head 34* now contains the proposed provisions to replace and re-enact elements of the Boundary Survey Ireland Acts.
- While it is still the intention to repeal and replace this 19th century legislation the revised Heads of Bill now propose that there will not be a statutory office holder of Chief State Surveyor. Instead, it is proposed that the functions of the Boundary Survey (Ireland) Acts be vested in the Tailte Éireann and the function of boundary survey will be performed by that office. This is provided for under *Head 9 Functions of Tailte*

Éireann and further developed under *Head 34 Amendment of Maritime Boundaries*.

Ordnance Survey Ireland Act 2001

- Tailte Éireann Bill, 2014 (Government decision dated 20.01.15) proposed that the Ordnance Survey Ireland Act 2001 be repealed.
- The revised General Scheme now proposes to retain provisions of this Act and proposes that the current functions of Ordnance Survey Ireland be vested in Tailte Éireann. This is now provided for under *Head 9 Functions of Tailte Éireann*.
- It is proposed that provisions appropriate to OSi when it was a commercial body be repealed in line with the establishment of Tailte Éireann as a scheduled office under the Public Service Management Act 1997, as provided for under *Head 27 Consequential amendments to other Acts*.
- The Department has inserted some repeals of sections of the OSi Act and Registration of Deeds and Title Act in the table above. These repeals are inserted as the Tailte Éireann Bill makes similar type provisions for the Tailte Éireann. Such repeals will be further examined in consultation with Parliamentary Counsel.

Head 6 – Expenses

Provide that:

The expenses incurred by the Minister in the administration of this Act and the Act of 1964, the Act of 1978, the Act of 2001, the Act of 2006 and the Act of 2015 and any other expenses incurred by the Minister in the administration of those Acts, shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Explanatory Note:

This is a standard provision with regard to expenses incurred by the Minister in the administration of this Act.

PART 2 – ESTABLISHMENT OF TAILTE ÉIREANN

Head 7 – Establishment Day

Provide that:

The Minister shall, by order appoint a day to be the establishment day for the purposes of this Act.

Explanatory Note:

Head 7 provides that the Minister shall appoint a day to be the establishment day for the purposes of the Act. The Head is based on *Section 3 of the Courts Service Act 1998*.

Head 8 – Establishment of Tailte Éireann.

Provide that:

- (1) On the establishment day there shall be established a body to be known as Tailte Éireann to perform the functions conferred on it by this Act.
- (2) Tailte Éireann shall be a body corporate with perpetual succession and an official seal and shall have power to sue, and may be sued, in its corporate name.
- (3) The seal of Tailte Éireann shall be authenticated by the signatures of both the Chief Executive and a member of the staff of Tailte Éireann authorised by the Chief Executive to act in that behalf.
- (4) Judicial notice shall be taken of the seal of Tailte Éireann and any document purporting to be an instrument made by, and to be sealed with the seal of, Tailte Éireann shall, unless the contrary is shown, be received in evidence and be deemed to be such instrument without further proof.
- (5) Tailte Éireann shall, subject to this Act, be independent in the performance of its functions.

Explanatory note:

Head 8 provides for the establishment of Tailte Éireann. The Head is based on *Section 4 of the Courts Service Act 1998*.

Tailte Éireann will consist of a board which will have an overall high level advisory capacity and will be established in accordance with the provisions under the *Bill Schedule: Board of Tailte Éireann*. This is provided for under *Head 10*.

Head 9 – Functions of Tailte Éireann

To provide that:

- (1) The functions of Tailte Éireann shall be the functions previously performed by -
 - (a) the Property Registration Authority under the Registration of Deeds and Title Acts 1964 to 2006 and under the Act of 1978;
 - (b) the Commissioner of Valuation under the Valuation Acts 2001 to 2020 and the Boundary Survey (Ireland) Acts 1854 to 1859;and,
 - (c) Ordnance Survey Ireland under the Ordnance Survey Ireland Act 2001
- (2) The Minister may, after consultation with Tailte Éireann and any other Minister of Government, who in the opinion of the Minister is concerned, by order -
 - (a) confer on Táihte Éireann, such additional functions connected with the functions for the time being of Táihte Éireann or services or activities that Tailte Éireann is authorised to provide or carry on (including functions of the Minister in relation to any directive, regulation or other act adopted by an institution of the European Communities or other international convention or agreement to which the State is or becomes a party, in relation to any function of Tailte Éireann) as the Minister considers appropriate, and,
 - (b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on Tailte of functions under this section or the performance by OSI of functions so conferred (including provision for the transfer to OSI of any property held by the Minister for the purposes of functions conferred on OSI under this section).
- (3) The Minister may by order amend or revoke an order under this section (including an order under this subsection).
- (4) Every order made by the Minister 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 order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Explanatory note:

Subsection (1) sets out the functions of Tailte Éireann.

The functions of Tailte Éireann will comprise all those functions currently undertaken by the Commissioner of Valuation including those functions performed in his capacity as Boundary Surveyor, Ordnance Survey Ireland and the Property Registration Authority.

These functions will include those functions as set out under the Valuation Acts 2001 to 2020, the Ordnance Survey Ireland Act 2001, the Registration of Deeds and Title Act 1964 to 2006 including the operation of the Ground Rents Purchase Scheme under the Landlord and Tenant (Ground Rents) (No 2) Act 1978 to 2019 and are transferred to Tailte Éireann under Parts 3, 4 and 5 of this Bill.

In the case of the Boundary Survey (Ireland) Acts, 1854¹, it is proposed that the functions of the Boundary Survey (Ireland) Acts be vested in the Tailte Éireann. This is provided for under *Head 34 Amendment of Maritime Boundaries*.

Subsection (2) is provided for to allow the Minister, following consultation with Tailte Éireann and any other Minister of Government, to confer, by Order, additional functions relating to the services or activities of Tailte Éireann, as the Minister considers appropriate. Such functions could arise for example as a result of an EU Directive or Regulation.

Any such Order will be laid before the Oireachtas and may be annulled by the Oireachtas.

¹ The Commissioner of Valuation is currently responsible for advising on the fixing of maritime and international boundaries and for the exercise of functions under the Boundary Survey (Ireland) Acts 1854 to 1859.

Head 10 - Board of Tailte Éireann

To provide that:

- (1) There shall be a Board of Tailte Éireann.
- (2) The provisions of the Bill Schedule shall apply to the Board.

Explanatory Note

It is intended that Tailte Éireann will have a board to perform functions as set out under *Head 11*. The provisions of the Bill Schedule will apply to the Board. The Board will consist of a Chairperson and six ordinary members appointed by the Minister.

It is intended that the Board of Tailte Éireann will have a high level strategic role and its functions are set out under *Head 11*.

The Chairperson will hold office for a period of 4 years with no member of the Board serving for a total of more than 8 years. There will be a quorum of 5 for each board meeting.

Head 11 – Functions of the Board

To provide that:

- (1) The Board shall have the general function of guiding the strategic direction of Tailte Éireann;
- (2) The Chief Executive shall, before preparing and submitting a strategy statement in accordance with the Public Service Management Act, 1997, seek and obtain the advice of the Board in relation thereto and the Board shall oversee the implementation of that Strategy by the Chief Executive;
- (3) The Board, in the performance of its functions, shall have regard to –
 - (a) the resources of Tailte Éireann for the purposes of such performance and the need to secure the most beneficial, effective and efficient use of such resources, and
 - (b) any policy or objective of the Government or a Minister of the Government insofar as it may affect or relate to the functions of Tailte Éireann.
- (4) The Minister may inform the Board of any policy or objective of the Government or a Minister of the Government referred to in *subsection (3)(b)*.
- (5) Nothing in this section shall be construed as enabling the Board to exercise any power or control in relation to the performance, in a particular case or in particular circumstances, of a function assigned to the Chief Executive by or under this Act;

Explanatory Note:

Subhead (1) intends that the Board will have a high-level strategic management role within Tailte Éireann.

Subhead (2) intends that the Board will be enabled to provide advice or guidance to the Chief Executive who, as head of office under the Public Service Management Act 1997, will be obliged under Section 4 (b) of that Act to submit a Strategy Statement to the Minister in respect of the objectives and outputs of Tailte Éireann.

Subheads (3) and (4) are intended to ensure that the Board will carry out its functions having regard to the resources available to the organisation and any policy or objective of Government.

Note: Tailte Éireann will be obliged, under the *Code of Governance for State Bodies* to meet all governance requirements applicable to it including entering into an annual performance agreement with the Department

Head 12 - Chief Executive of Tailte Éireann

To provide that:

- (1) There shall be a chief executive officer of Tailte Éireann (in this part referred to as the “Chief Executive”)
- (2) Subject to *subsection (3)*, the Chief Executive shall be appointed by the Minister and shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as the Minister may determine with the consent of the Minister for Public Expenditure and Reform.
- (3) The person holding office as Chief Executive Designate immediately before the establishment day shall be the first Chief Executive of Tailte Éireann.
- (4) A person shall not be appointed as Chief Executive of Táihte Éireann unless (except where *subsection (3)* applies) -
 - (a) the Public Appointments Service have, following holding a competition on behalf of the Office, selected him or her for nomination by the Minister to the Government for the purpose of approving his or her appointment as the Chief Executive of Tailte Éireann, and
 - (b) his or her appointment has upon nomination by the Minister been approved by the Government.

Explanatory note:

Head 12 is intended to set out the provisions for the Chief Executive of Tailte Éireann who will be known as the Chief Executive. The provisions provide that the appointment of the Chief Executive shall be an appointment by the Minister subject to Government approval. This is similar to the provisions for appointment of the Planning Regulator - *Section 31W of the Planning and Development (Amendment) Act 2018*.

Subheads (1) provides for the position of Chief Executive of Tailte Éireann.

Subhead (2) provides for the terms and conditions of the office to be determined by the Minister with the consent of the Minister for Public Expenditure and Reform.

Subhead (3) is included to acknowledge the intention as regards the first appointed Chief Executive. The provision establishes that the person designate of Tailte Éireann immediately before the establishment day will be the Chief Executive of Tailte Éireann on the establishment day.

Subhead (4) outlines the process for appointment of the Chief Executive intending that the nomination for appointment will only be made by the Minister following competition held by the Public Appointments Service and that the appointment will be subject to Government approval.

Head 13 - Functions of Chief Executive

To provide that:

- (1) Notwithstanding any other enactment, the Chief Executive shall manage and control generally the staff, administration and business of Tailte Éireann, including the functions transferred to Tailte Éireann under Parts 3, 4 and 5 of this Act insofar as such functions relate to a function of Tailte Éireann, and shall perform such other functions as may be conferred on him or her by or under this Act.
- (2) Notwithstanding the provisions of *Head 17*, the Chief Executive shall be responsible to the Board for the performance of his or her functions and the implementation of the Government policies insofar as they relate to the functions of Táiite Éireann.
- (3) The Chief Executive shall provide to the Board such information (including financial information) in relation to the performance of his or her functions as the Board may from time to time require.
- (4) The functions of the Chief Executive may be performed during his or her absence or when the position of Chief Executive is vacant by such member of the staff of Tailte Éireann as may from time to time be designated for that purpose by the Minister.

Explanatory note:

Head 13 is intended to set out the general functions of the Chief Executive which will be to act as the chief officer in the carrying out the business of Tailte Éireann including any function as transferred to Tailte Éireann under Parts 3, 4 and 5 of this Act.

The Chief Executive will be responsible to the Board for the performance of his or her functions and for the implementation of Government policy.

Provision is also included for that carrying out of these functions by any staff members designated to do so by the Board during an absence of the Chief Executive - *subhead (4)*.

Similar provision under *Section 20 Courts Service Act, 1998*.

Head 14 – Consultation by Chief Executive with Board

To provide that:

- (1) The Chief Executive may consult with or request the advice of the Board on any matter relating to a function of Tailte Éireann.
- (2) The Chief Executive shall have regard to any advice of the Board pursuant to a request under this section before performing any function to which the advice relates.

Explanatory note:

This is a standard provision for an organisation with a board structure and is based on *Section 15 Workplace Relations Act 2015*.

Head 15 – Delegation of functions of Chief Executive

To provide that:

- (1) The Chief Executive may delegate in writing any specified function under the following Acts to any member of staff of Tailte Éireann:-
 - (a) Registration of Deeds and Title Acts 1964 to 2006;
 - (b) Landlord and Tenant (Ground Rents) (No 2) Act 1978 to 2019;
 - (c) Valuation Acts 2001 to 2020.
- (2) Where a function is delegated under *subsection (1)*, the member of staff concerned shall perform the function under the general direction and subject to the general control of the Chief Executive and in accordance with such (if any) limitations as may be specified in the delegation in relation to the area or period in which or the extent to which he or she is to perform the function.
- (3) Any function, when performed by a member of staff to whom it has been delegated under this section, shall be deemed to have been performed by the Chief Executive.
- (4) A delegation under this section may relate to the performance generally of a function or to the performance of a function in a particular case or class of case or in relation to property in a particular area.
- (5) The Chief Executive may revoke a delegation under this section at any time either generally or in relation to a particular case or class of case or in relation to property in a particular area.
- (6) Where, as respects a particular case or class of case, a delegation of a function is revoked at a time when the function has not been fully performed, the Chief Executive himself or herself or another member of staff of Tailte Éireann to whom a delegation in respect of that function has been made under this section may continue the performance of the function as respects the case or class of case.
- (7) The Minister may give such general directions in writing to the Chief Executive in relation to the exercise of his or her powers under this section as the Minister considers appropriate and the Chief Executive shall comply with any such directions.
- (8) *Subsection (7)* shall not be construed as enabling the Minister to exercise any power or control in relation to the exercise in particular circumstances by the Chief Executive of his or her powers under this section.

Explanatory note:

Head 15 is intended to provide that the Chief Executive will delegate (and may subsequently revoke) certain of his or her functions to a specified member of the staff of Tailte Éireann. The provision is intended to enable the Chief Executive to delegate specified (quasi-judicial) functions transferred to Tailte Éireann under this Bill to an officer of Tailte Éireann.

Similar provision is made under *Section 11 Valuation Act 2001*. Such functions would include for example; issuing of certificates (*Section 67 Valuation Act 2001*); the production to the Valuation Tribunal or a Court of a document purporting to be a copy of a valuation list (*Section 60 Valuation Act 2001*).

As Head of Office under the *Public Service Management Act 1997* the provisions of *Section 9* regarding assignment of responsibility for performance of general functions to the staff of Tailte Éireann apply in relation to administrative functions.

The Department notes that there are areas of overlap between the VO, PRA and OSi that arise on transfer of their functions to Tailte Éireann.

In broad terms these areas mainly relate to Tailte Éireann issuing a certificate of valuation that is then used as evidence of varying purpose and weight in certain applications determined by itself relating to land; and to Tailte Éireann being the body that will maintain the mapping that underpins other functions.

Preliminary legal view through the AG Office is that any such matter could be dealt with in the drafting of the Bill and considerations will be given, in consultation with Parliamentary Counsel, to the possible need for a provision that the person who fixes rateable valuations is not the same person with delegated authority to deal with applications regarding registrations of property.

Head 16 - Power to enter lands

To provide that:

- (1) The Chief Executive or a member of the staff of Tailte Éireann may, at all reasonable times, enter on any land or premises and there make such inquiries, investigations and examinations as he or she thinks proper for the purpose of the performance of any of the functions conferred on the Chief Executive by this Act.
- (2) A person specified in *subsection (1)* shall not, other than with the consent of the occupier, enter a private dwelling or its curtilage, unless he or she has obtained a warrant from the District Court under *subsection (6)* authorising such entry.
- (3) Where a person specified in *subsection (1)* in the exercise of his or her powers under this section is prevented from entering any land or premises an application may be made under *subhead (6)* to authorise such entry.
- (4) For the purpose of the exercise or performance of any of the functions conferred on it under this Act, an officer of Tailte Éireann may place or cause to be placed on any land or premises survey marks for the purpose of supporting the national grid and geodetic and height frameworks.
- (5) A person specified in *subsection (1)*, where he or she considers it necessary, may be accompanied by a member of the Garda Síochána when performing any functions conferred on him or her by this Act.
- (6) If a judge of the District Court is satisfied on the sworn information of a person specified in *subsection (1)* that the Chief Executive requires to make such inquiries, investigations and examinations, as he or she thinks proper, for the purpose of the performance of any of the functions conferred on Tailte Éireann by this Act, on any land or premises (including the curtilage of any premises), the judge may issue a warrant authorising a person specified in *subsection (1)* accompanied by other persons at any reasonable time or times, within one month from the date of issue of the warrant, on production of the warrant if so requested, to enter the land (if needs be through any premises) or premises and carry out such inquiries, investigations and examinations.
- (7) An application under *subsection (6)* shall be made to a judge of the District Court for the district court area in which the land or premises is situated.
- (8) A person who obstructs or impedes a person specified in *subsection (1)* in the exercise of his or her powers under this section is guilty of an offence.
- (9) A person who intentionally destroys or removes a survey mark of Tailte Éireann is guilty of an offence.

- (10) A person guilty of an offence under this section shall be liable on summary conviction to a Class A fine.

Explanatory note:

This Head replicates similar provisions in the Ordnance Survey Ireland Act 2001 to give these powers to the Chief Executive.

Subsection (1) provides a general right for the Chief Executive or a member of the staff of Tailte Éireann to enter onto land for the purposes of the performance of the functions conferred on the Chief Executive by this Act.

Subsection (2) specifies that the Chief Executive cannot enter a private dwelling without the consent of the occupier unless he or she has obtained a warrant from the District Court to do so.

Subsection (3) provides that if prevented from entering any lands or premises the Chief Executive may make an application to the Court for an Order authorising such entry.

Subsection (4) deals with the placing of survey marks on any land or premises by the Chief Executive and subhead (5) provides that an officer Tailte Éireann may be accompanied by a member of the Garda Síochána when performing any functions conferred on him or her by this Act.

Subsection (6) provides that a judge of the District Court may, on application by the Chief Executive, issue a warrant authorising entry to any land or premises.

Subsection (7) deals with the jurisdiction of the District Court for the purposes of *subsection (6)*.

Subsection (8) makes it an offence for any person to impede or obstruct an officer of Tailte Éireann in the exercise of his or her power of entry while *subsection (9)* makes it an offence to in destroy or otherwise interfere with a survey mark of Tailte Éireann.

Subsection (10) provides that any person guilty of an offence under the section is liable on summary conviction to a Class A fine.

Head 17 – Chief Executive to be accounting officer

To provide that:

The Chief Executive shall be the accounting officer for the appropriation accounts of Tailte Éireann for the purposes of the Exchequer and Audit Departments Acts, 1866 and 1921, and the Comptroller and Auditor General (Amendment) Act, 1993 .

Explanatory note:

It is intended that the Chief Executive of Tailte Éireann will be the accounting officer for the purposes of audit by the Comptroller and Auditor General (Amendment) Act, 1993. Provision is body.

Head 18 – Amendment of Comptroller and Auditor General (Amendment) Act 1993

Provide that:

The Comptroller and Auditor General (Amendment) Act 1993 is amended by inserting the following section after section 18A:

“Application of this Act to the Tailte Éireann”

18B.—This Act applies to the Tailte Éireann as if it were a Department.”

Explanatory note:

This is a standard provision to give effect to enable the Chief Executive as Accounting Officer.

Head 19 – Accountability of Chief Executive to other Oireachtas Committees

To provide that:

- (1) In this section “committee of the Oireachtas” means a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in *Head 17* or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of a committee so appointed.
- (2) Subject to *subsection (3)*, the Chief Executive shall, at the request in writing of a Committee, attend before it to give account for the general administration of Tailte Éireann.
- (3) The Chief Executive shall not be required to give account before a Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court in the State (including the Valuation Tribunal).
- (4) Where the Chief Executive is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the Chief Executive is before it, the information shall be so conveyed in writing.
- (5) Where the Chief Executive has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion—
 - (a) the Chief Executive may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or
 - (b) the Chairperson of the Committee may, on behalf of the Committee, make such an application, and the High Court shall determine the matter.
- (6) Pending the determination of an application under *subsection (5)*, the Chief Executive shall not attend before the Committee to give account for the matter the subject of the application.
- (7) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)*, but if the High Court determines that *subsection (3)* does not apply, the Chief Executive shall attend before the Committee to give account for the matter.
- (8) In the performance of his or her duties under this section, the Chief Executive shall not question or express an opinion on the merits of any policy of the

Government or a Minister of the Government or on the merits of the objectives of such a policy.

Explanatory note:

Notwithstanding the provisions of *Head 8* which states that Tailte Éireann shall be independent in the performance of its functions, it is intended that its Chief Executive will be subject to Dáil scrutiny through the Oireachtas Committees for its general administration.

This purpose of *Head 19* is to make provisions for such Dáil scrutiny and the provisions are similar to provisions under other legislative provisions of the Irish Statute Book such as *S.23 Charities Act 2015*.

Head 20 – Membership of either House of Oireachtas or European Parliament

To provide that:

- (1) Where a member of the Board is—
 - (a) nominated as a member of Seanad Éireann,
 - (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or
 - (c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be a member of the Board.

- (2) Where the Chief Executive is—
 - (a) nominated as a member of Seanad Éireann,
 - (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or
 - (c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be Chief Executive.

- (3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified for membership of the Board or for employment in any capacity by *Tailte Éireann*.

- (4) In this section “Act of 1997” means the European Parliament Elections Act 1997.

Explanatory note:

This is a standard provision for ensure the independence of the Board and the Chief Executive from membership of Oireachtas and European Parliament. Based on *Section 18 Workplace Relations Act 2015*.

Head 21 – Acting Chief Executive

Provide that:

- (1) Subject to *subsection (2)*, the Minister may appoint a person to perform the functions of the Chief Executive during –
 - (a) any period or periods when the Chief Executive is absent from duty or from the State or is, for any other reason, unable to perform the functions of Chief Executive,
 - (b) any suspension from office of the Chief Executive, or
 - (c) any vacancy in the office of Chief Executive.
- (2) A person shall not be appointed to perform the functions of the Chief Executive for a continuous period of more than 12 months during a vacancy in the office of Chief Executive.
- (3) The Minister may at any time terminate an appointment under this section.

Explanatory note:

Head 21 is intended to provide for the temporary assignment of the Chief Executive's functions during a period of absence by the Chief Executive or when the office of the Chief Executive is vacant. This is a standard measure designed to ensure continuity of leadership in the event of a vacancy in the office of the Chief Executive. Similar type provision under *Section 19 Workplace Relations Act 2015*.

Head 22 – Reports to Minister

To provide that:

- (1) As soon as practicable, but in any case not later than six months after the end of each period of 12 months commencing on the establishment day or the anniversary of the establishment day, Tailte Éireann shall report in writing to the Minister on its activities during that 12 month period, and the Minister shall lay a copy of the report before each House of the Oireachtas.
- (2) A report under *subsection (1)* shall include information on the performance of the functions of Tailte Éireann during the year to which it relates and such other information in such form as Tailte Éireann thinks fit or the Minister may direct.
- (3) Tailte Éireann shall, if so requested by the Minister, furnish to the Minister such information as the Minister may request relating to -
 - (a) any matter concerning the policy and activities of Tailte Éireann generally,
 - (b) any specific matter or account prepared by it, or
 - (c) any report specified in *subsection (1)*,

and the information shall be furnished by the Chief Executive acting under the general authority of the Board.

Explanatory note:

Head 22 requires, on standard lines, the board to make an Annual Report to the Minister and to make such other reports to the Minister.

The head *subhead (1)* provides that the time for submission of Annual report be 6 months following the year end, as is currently required for the Property Registration Authority under the Registration of Deeds and Title Act 2006.

Similar wording at *Section 8 Courts Service Act 1998*.

Head 23 – Staff of Tailte Éireann

To provide that:

- (1) Subject to *subsection (3)*, the Chief Executive may appoint such number of persons to be members of its staff as it may determine.
- (2) Subject to *subsection (3)*, the Chief Executive shall determine the grades of members of its staff and the numbers in each grade.
- (3) A determination of the Chief Executive under *subsection (1)* or *(2)* is subject to the approval of the Minister and the consent of the Minister for Finance.
- (4) Members of the staff of the Tailte Éireann shall be civil servants in the Civil Service of the State within the meaning of the Civil Service Regulation Act 1956.
- (5) The Minister may delegate to the Chief Executive the powers exercisable by him under the Civil Service Commissioners Act, 1956 , and the Civil Service Regulation Acts, 1956 and 1958, as the appropriate authority in relation to members of staff of Tailte Éireann, and, if he does so, then, so long as the delegation remains in force -
 - a) those powers shall, in lieu of being exercisable by the Minister, be exercisable by the Chief Executive, and
 - b) the Chief Executive shall, in lieu of the Minister, be, for the purposes of this Act, the appropriate authority in relation to members of staff of Tailte Éireann.

Explanatory note:

The intention is that the staff of Tailte Éireann shall be civil servants and shall report ultimately to the Chief Executive of Tailte Éireann.

The Department will consult with Parliamentary Counsel to ensure that references in the Valuation Acts to ‘officers of the Commissioner’ to be interpreted as referring to the members of the staff of Tailte Éireann.

Head 24: Transfer of Staff to Tailte Éireann

To provide that -

- (1) Every person who immediately before the establishment day is a member of the staff of a dissolved body or is an officer of the Commissioner of Valuation shall, on that day, be transferred to and become a member of the staff of Tailte Éireann.
- (2) If such is not the case immediately before the establishment day, a person transferred to a position in Tailte Éireann shall, from that day, be subject to and employed in accordance with the Civil Service Regulation Acts 1956 to 2005 and the Ethics in Public Office Acts 1995 and 2001.
- (3) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association, the Chief Executive of Tailte Éireann, shall accept into its employment on the establishment day each person who immediately before that day was a member of the staff of a body dissolved under this Act, on such terms and conditions of service relating to remuneration as are not less favourable than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day.
- (4) The terms and conditions to which a person is subject upon his or her becoming a member of the staff of Tailte Éireann in accordance with *subsection (1)* shall be deemed to have been determined by the Chief Executive in accordance with *subsection (2) of Head 25*.
- (5) In relation to persons transferred to the staff of Tailte Éireann under subsection (1), previous service with a body dissolved or as an officer of the Commissioner of Valuation under this Act, shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the Redundancy Payments Acts 1967 to 2007, the Protection of Employees (Part-Time Work) Act 2001, the Organisation of Working Time Act 1997, the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Unfair Dismissals Acts 1977 to 2007.

Explanatory Note:

Subhead (1) provides that every person who was a member of staff of the Property Registration Authority and Ordnance Survey Ireland or an officer of the Commissioner of Valuation prior to the establishment day shall become a member of the staff of Tailte Éireann on its establishment.

Subhead (2) makes it clear that from the establishment all members of the staff of Tailte Éireann are employed in accordance with the relevant Civil Service Regulation Acts.

Subhead (3) has been included to address the issue of differing grades and remuneration across the three organisations being merged. Essentially it provides that members of

staff of Tailte Éireann retain their pay scales until a collective agreement is negotiated with a recognised trade union or staff association.

Subhead (4) is provided to provide clarity on the terms and conditions of staff of Tailte Éireann which shall be set by the Chief Executive under *Head 23 (2)*.

Subhead (5) provides that previous service in a dissolved body or as an officer of the Commissioner of Valuation shall be reckonable for the purposes of the legislation listed therein.

Head 25 – Fees

Provide that:

- (1) The Minister, with the consent of the Minister for Public Expenditure and Reform, may by order prescribe the fees to be charged by Tailte Éireann for its services and may revoke or amend any such order, including an order under this subsection.
- (2) Any provision of this Act or of a Statutory Instrument requiring or authorising anything to be done or any document to be issued by Tailte Éireann or in or from Tailte Éireann is to be construed as requiring or authorising it to be done or the document to be so issued on payment of the prescribed fee.
- (3) Fees payable under this section shall be collected and taken in such manner as the Minister for Public Expenditure and Reform may from time to time direct be paid into and disposed of for the benefit of the Exchequer in accordance with the directions of that Minister.
- (4) The Public Offices Fees Act 1879 does not apply to fees payable under this section.

Explanatory note:

Head 25 makes provision for the fees charged by Tailte Éireann for its services. It provides that the Minister, with the consent of the Minister for Public Expenditure and Reform, may by order fix the level of fees to be charged.

The intention is that fees shall not be fixed at a level which would produce an annual amount less than that required to pay for the salaries, remuneration and other expenses of Tailte Éireann. Fee income shall be paid into the Exchequer.

Head 26 – Data Sharing

Explanatory Note:

Section 10 (1)(f) of the Data Sharing and Governance Act 2019 is amended by adding “Tailte Éireann” in the place of the Commissioner of Valuation.

Explanatory Note:

This amendment is proposed to ensure that Tailte Éireann is noted as a “public body” for the purposes of the Data Sharing and Governance Act 2019.

Head 27 - Consequential Amendments to other Acts

To provide that –

- (1) The Public Service Management Act 1997 is amended in Part II of the Schedule by the insertion of the following after reference number 13:
 - a. “14. Tailte Éireann”.

- (2) The Ethics in Public Office (Prescribed Public Bodies, Designated Directorships of Public Bodies, and Designated Positions in Public Bodies) Regulations 2004 (S.I. No. 699 of 2004) are amended by adding to the Schedule “Tailte Éireann” in the place of the Valuation Office, Valuation Tribunal , Property Registration Authority and Ordnance Survey Ireland.

- (3) *Paragraph 1(2)* of the First Schedule to the Official Languages Act 2003 is amended -
 - (a) in the Irish text, deleting “[insert irish names]” and by inserting “[Irish name for] Tailte Éireann” and,

 - (b) in the English text, deleting “Ordnance Survey Ireland” and “the Valuation Office” and “the Land Registry” and “the Registry of Deeds” and by inserting “Tailte Éireann”.

Explanatory note:

Subhead (1) - to ensure that Tailte Éireann is a scheduled office, it is added to Part II of the Schedule of the PSMA 1997.

Subhead (2) - A provision is added to ensure that Tailte Éireann is covered by the Ethics in Public Bodies Regulations and that previous referenced in those regulations to the Valuation Office, Valuation Tribunal, Property Registration Authority and Ordnance Survey Ireland are accordingly removed.

Subhead (3) - Provision is also made for the inclusion of Tailte Éireann (in both languages) in place of Ordnance Survey Ireland, the Valuation Office and the Land Registry and the Registry of Deeds (PRA) by inserting the words “Tailte Éireann” within the body of the Official languages Act 2003.

PART 3

Valuation

Head 28 – Transfer of functions from Commissioner of Valuation to Tailte Éireann

To provide that:

- (1) All functions that, immediately before establishment day, were vested in the Commissioner of Valuation are transferred to Tailte Éireann.
- (2) Anything commenced and not completed before the establishment day by or under the authority of the Commissioner of Valuation may be carried on or completed on or after the establishment day by Tailte Éireann.
- (3) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by this section, shall, if and in so far as it was operative immediately before the establishment day, have effect on and after that day as if it had been granted or made by Tailte Éireann.
- (4) References in any enactment or instrument under an enactment to the Commissioner of Valuation in so far as they relate to a function transferred by this section shall be construed as references to Tailte Éireann.
- (5) This section shall come into operation on establishment day.

Explanatory note:

Based on similar type provision of *Section 57 Workplace Relations Act 2015* however the office of the Commissioner of Valuation will not be dissolved rather its current head, the Commissioner of Valuation, will be replaced.

Head 28 provides for the transfer of all functions from the Commissioner of Valuation to Tailte Éireann. The functions, which are currently vested in the Commissioner of Valuation, and which will transfer to Tailte Éireann, include:

- the determination of the value of all relevant properties (other than relevant properties specified in Schedule 4 of the Act of 2001) in accordance with the provisions of the Valuation Acts,
- and,
- all functions currently performed by the Commissioner of Valuation on the fixing of maritime and international boundaries and for the exercise of functions under the Boundary Survey (Ireland) Acts 1854 to 1859.

The Head also provides a “catch all” provision at *subsection (2)* to ensure that references in all other enactments prior to commencement of this Act to the Commissioner of Valuation are construed as references to Tailte Éireann. Similar “catch all” provision under Section 76(3) Residential Tenancies (Amendment Act 2015 which, amongst other things, dissolved the Rent Tribunal.

Head 29 – Transfer of property of Commissioner of Valuation to Tailte Éireann

To provide that:

- (1) On establishment day all property (other than land), including choses-in-action, that immediately before that day, was vested in the Commissioner of Valuation shall stand vested in Tailte Éireann without any assignment.
- (2) Every chose-in-action vested in Tailte Éireann by virtue of *subsection (1)* may, on and from establishment day, be sued on, recovered or enforced by Tailte Éireann in the name of Tailte Éireann, and it shall not be necessary for Tailte Éireann, or the Commissioner of Valuation, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.
- (3) On establishment day all records that, immediately before that day, were records of the Commissioner of Valuation shall be records of Tailte Éireann and shall, accordingly, be transferred to Tailte Éireann.

Explanatory note:

Based on *Section 58 Workplace Relations Act 2015*

Head 30 – Transfer of rights and liabilities of Commissioner of Valuation to Tailte Éireann

To provide that:

- (1) All rights and liabilities of the Commissioner of Valuation subsisting immediately before establishment day and arising by virtue of any contract or commitment (expressed or implied) shall on that day stand transferred to Tailte Éireann.
- (2) Every right and liability transferred by *subsection (1)* to Tailte Éireann may, on and after establishment day, be sued on, recovered or enforced by or against Tailte Éireann in the name of Tailte Éireann and it shall not be necessary for Tailte Éireann, or the Commissioner of Valuation, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

Explanatory note:

Based on Section 59 Workplace Relations Act 2015

Heads 29 and 30 provide for the transfer of all relevant land, property, liabilities, licences and the continuation of leases vested in the Commissioner of Valuation to Tailte Éireann on establishment day.

Head 31 – Liability for loss occurring before establishment day

To provide that:

- (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before establishment day of any of the functions of the Commissioner of Valuation shall after that day, lie against Tailte Éireann and not against the Commissioner of Valuation.
- (2) Any legal proceedings pending immediately before establishment day to which the Commissioner of Valuation is a party, shall be continued, with the substitution in the proceedings of Tailte Éireann for the Commissioner of Valuation.
- (3) Where, before establishment day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the Commissioner of Valuation, be enforceable against Tailte Éireann and not the Commissioner of Valuation.
- (4) Any claim made or proper to be made by the Commissioner of Valuation in respect of any loss or injury arising from the act or default of any person before establishment day shall be regarded as having been made by or proper to be made by Tailte Éireann and may be pursued and sued for by Tailte Éireann as if the loss or injury had been suffered by Tailte Éireann.

Explanatory note:

Based on section 60 Workplace Relations Act 2015

Head 31 is intended to provide for any liabilities of loss occurring prior to establishment day, including allowing any legal proceedings pending immediately before dissolution day, to which the Commissioner of Valuation, is a party to continue with the submission of Tailte Éireann.

Head 32 – Provisions consequent upon transfer of functions, property, rights and liabilities to Tailte Éireann

To provide that:

- (1) Anything commenced and not completed before establishment day by or under the authority of the Commissioner of Valuation may, in so far as it relates to a function transferred to Tailte Éireann under *Head 28*, be carried on or completed on or after establishment day by Tailte Éireann.
- (2) If, immediately before the establishment day, any proceedings are pending in any court or tribunal to which the Commissioner of Valuation is a party, the name of Tailte Éireann is substituted in the proceedings for that of the Commissioner of Valuation, and the proceedings do not abate by reason of the substitution.
- (3) Nothing in this Act affects the validity of any act done before the establishment day by or on behalf of the Commissioner of Valuation and any such act, if and in so far as it was operative immediately before that day, has effect on and after that day as if it had been done by or on behalf of Tailte Éireann.
- (4) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *Head 28*, shall, if and in so far as it was operative immediately before establishment day, have effect on and after that day as if it had been granted or made by Tailte Éireann.
- (5) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in Tailte Éireann under *Head 29 or 30* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Explanatory note:

Technical provision. The intention here is to ensure continuity as between the functions, property, rights and liabilities previously of the Commissioner of Valuation and Tailte Éireann. Based on *Section 61 Workplace Relations Act 2015* noting that it is not the intention to dissolve the office of the Commissioner of Valuation rather its current head, the Commissioner of Valuation, will be replaced.

For the purposes of clarity, it is intended that all valuations and/or legal proceedings underway that the Commissioner of Valuation is a party to, will continue in the name of Tailte Éireann post establishment day.

Head 33 – Final accounts and final annual report of Commissioner of Valuation

To provide that:

- (1) The Chief Executive shall, in respect of the period specified under *subsection (3)*, prepare final accounts of the Commissioner of Valuation.
- (2) The Chief Executive shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after establishment day.
- (3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the Commissioner of Valuation.
- (4) The Chief Executive shall prepare the final annual report for the Commissioner of Valuation and submit the report to the Minister not later than 5 months after establishment day.

Explanatory note:

Technical provision in relation to the final accounts and annual report of the Commissioner of Valuation. Similar type provision under *Section 62 Workplace Relations Act 2015*.

Head 34 – Amendment of Maritime Boundaries

To provide that:

- (1) All land boundaries of counties and their constituent denominations, which are in existence prior to the establishment day, shall continue to have the same effect as they had immediately prior the establishment day.
- (2) All maps showing land boundaries of counties and their constituent denominations prepared by the Boundary Surveyor under the Survey (Ireland) Acts, 1825 to 1870, or otherwise in accordance with law continue to have all such force and effect as they had immediately before the establishment day.
- (3) On notification by a Local Authority that a change or alteration has taken place in the land boundaries of a county or any of its constituent denominations, or in any portion or portions thereof, arising from reclamation, erosion or accretion of land from the sea or a tidal river or a lake, the Chief Executive shall ascertain, define, and position the present acknowledged or reputed boundaries of every such county or its relevant constituent denomination or of such portion or portions thereof respectively, as the Chief Executive may deem it necessary to ascertain, define, or position.
- (4) Where a notification under *subsection (3)* has been made by a Local Authority, the Chief Executive shall, as soon as is reasonably practicable, prepare and make out a report in detail of the proposed alteration in any of such boundaries, setting out the grounds for making such alteration, accompanied by a plan or plans showing in detail the present boundaries as deemed and taken for all public purposes, and those which it is proposed to substitute for them.
- (5) On completion of the Report specified in *subsection (4)*, the Chief Executive shall:
 - (a) serve notice of the proposed boundary alteration on the Minister for the Housing, Local Government and Heritage and the Minister for Agriculture, Food and the Marine,
 - (b) cause to be published in *Iris Oifigiúil*, in one national newspaper circulating in the State and on the website of *Tailte Éireann* a notice to include:
 - (i) a description of the extent of the proposed boundary alterations;
 - (ii) an intimation that a copy of the draft alterations is open for public inspection at a place specified in the notice;
 - (iii) a statement that any person may submit to the Chief Executive of *Tailte Éireann* objections to the draft alterations at any time during the period of 30 days commencing on the day of the first publication of the notice,

- (iv) a statement that any person who objects to the proposed alterations may submit his or her objection in writing to the Chief Executive of Tailte Éireann within the time period specified in *subparagraph (iii)*.

- (6) On the expiration of the period of 30 days specified in *subsection (5) (b) (iii)*, the Chief Executive shall, having considered submissions of interested parties, if any, submit the Report specified in *subsection (5)*, including any alterations to the original Report, to the relevant Local Authority, who in the absence of good cause to the contrary shall agree the said report.

- (7) Where the proposed alterations are agreed by the relevant Local Authority, the Chief Executive shall serve notice on any person who objected to the proposed alterations to the effect that the proposed boundary alterations are to proceed.

- (8) It shall be open for any person specified in *subsection (7)* to appeal the decision to proceed to the court provided that notice of such appeal is served on Tailte Éireann within 21 days of receipt of the notice specified in *subsection (7)*.

- (9) The Chief Executive shall, following agreement of the relevant Local Authority to the proposed boundary alterations or the determination of any appeal to the court, as the case may be, submit the Report, including any variations from the original, to the Minister together with a formal request that the matter be brought to the Government for approval.

- (10) The Government may, at the request of the Minister and having considered the Report specified in *subsection (9)*, make an Order, called a Maritime Boundary Order, directing that any alteration to the boundary line or portion or portions of a boundary line of any county or its constituent denominations shall for all public purposes be deemed and taken to be the present boundary line, or portion or portions of such boundary line, altered by the adoption of such of the changes proposed by the Chief Executive which are described in the Report specified in *subsection (9)* and delineated on the Plan(s) attached to that Report, as the Government thinks proper.

- (11) In this Head,
 - “court” means the Circuit Court of the Circuit in which the subject lands are situate.
 - “constituent denominations” include baronies, townlands, cities, boroughs, towns, parishes and electoral divisions

Explanatory Note:

Head 5 provides for the repeal of 19th century legislation relating to boundary survey.

This head re-enacts elements of the 19th century legislation relating to the amendment of maritime boundaries. While recent Local Government legislation introduced new procedures relating to changes in administrative boundaries, no such legislation has

been introduced to provide for revisions arising from land claimed from the sea or tidal rivers or lakes, which are still governed by the 19th century legislation (which is repealed in this Act). The Head is designed to re-enact those provisions of the 19th century legislation relating to:

- the process of positioning proposed revisions in the boundaries;
- the serving of notice and publication of the proposed revisions;
- an appeal to court;
- submission of a Report on the proposed boundary revisions to the Government;
- the making of a Government Order specifying the revisions to be made in the boundaries.

Subsections (1) and (2) are standard provisions designed to protect the integrity of maps, boundaries etc. which are in existence prior to the passing of the Act.

Subsection (3) provides that, at the request of a local authority, the Chief Executive shall ascertain, define and position the acknowledged or reputed boundaries of the relevant portion of the county, barony etc. *Subsection (4)* provides for the making of a Report, accompanied by relevant maps, by the Chief Executive regarding the proposed changes to the boundaries.

Subsection (5) outlines the manner in which the proposed revisions of the boundaries are to be publicised and provides that objections regarding the proposals may be made to the Chief Executive within a 30-day period.

Subsection (6) provides that, having considered any objections made under *subsection (5)*, the Chief Executive shall submit the Report to the Local Authority for agreement.

Subsection (7) provides that, when the Report is agreed by the Local Authority, the Chief Executive shall notify any person who has objected to the proposed revisions that the alterations are to proceed.

Subsection (8) provides that it shall be open for any person specified in *subsection (7)* to appeal the decision to proceed to the court provided that notice of such appeal is served on the Chief Executive within 21 days of receipt of the notice specified in *subsection (7)*.

Subsection (9) provides for the submission of the Report to the Minister for approval by the Government. *Subsection (10)* gives the Government the power to make an Order on foot of the submission of the Report by the Minister.

Subsection (11) defines what is meant by “court” in the context of the Head.

Head 35 – Amendment to Section 53 of the Valuation Act 2001

To provide that:

- (1) Section 53(3)(a) is amended to provide that the wording “the Minister for the Environment and Local Government and” be removed.
- (2) Section 53(6)(b) is amended to provide that the wording “the Minister for the Environment and Local Government and” be removed.
- (3) Section 53 (8) is amended by replacing the words “the Minister for Environment and Local Government” with “any other relevant Minister who, in the opinion of the Minister, is concerned in the matter”.
- (4) Section 53(10) is amended by replacing the words “the Minister for Environment and Local Government” with “the Minister and to any other relevant Minister who, in the opinion of the Commissioner, is concerned in the matter”.
- (5) Section 53(11) is amended by replacing the words “the Minister for Environment and Local Government” with “the Minister and to any other relevant Minister who, in the opinion of the Commissioner, is concerned in the matter”.
- (6) *Section 53(12)* is amended by replacing the words “the Minister for Environment and Local Government” with “ the Minister and any other relevant Minister copied with a certificate by the Commissioner under *ss 53(10)* or *ss 53(11)*”

Explanatory Note:

On 12th December 2017 the functions of the Minister for Justice and Equality became vested by Ministerial Order in the Minister for Housing, Planning and Local Government (now Housing, Local Government and Heritage) with effect from 1st January 2018. The Department noted, at the time of transfer, the importance of ensuring that the Transfer of Functions Order should not fall short of the Mulcreavy Judgementⁱ

The Department is conscious of future proofing the consultation obligations under Section 53 should the oversight functions for Tailte Éireann transfer to another Minister in the future. In such circumstances the relevant Minister for consultation would be the Minister for Government with responsibility for local government.

- (1) The effect of the proposed amendment *to subsection 53(3)(a)* will be that the Minister may make an order requiring Tailte Éireann to carry out a global

valuation and in doing so it will be obliged to consult with any other relevant Minister for Government at the time.

- (2) The effect of the proposed amendment to *subsection 53(6)(b)* will be that the Minister may require Tailte Éireann to carry out a further global valuation at an earlier time to the fifth year provided for under *subsection 53(6)(a)* and in so doing will consult with any other relevant Minister for Government at the time.
- (3) The effect of the proposed amendment to *subsection 53(8)* that the Minister shall be obliged to consult with any other relevant Minister for Government at the time before prescribing by order so much of the valuation as is to be apportioned to each of the rating authorities.
- (4) The effect of the proposed amendment to *subsection 53(10)* is that Tailte Éireann will be obliged to copy its final terms of a global valuation certificate to the Minister and to any other relevant Minister for Government at the time.
- (5) The effect of the proposed amendment to *subsection 53(11)* is that Tailte Éireann will be obliged to issue a copy of a valuation certificate three months in advance of issuing its final terms under *subsection 53(10)* of the certificate, to the Minister and to any other relevant Minister for Government at the time.
- (6) The effect of the proposed amendment to *subsection 53(12)* is to allow the Minister or any other Minister concerned with global valuations, to make a submission to Tailte Éireann within 28 days from the date of the issuing of the copy to him or her under *ss 53(10)* and *ss53(11)*.

PART 4
PROPERTY REGISTRATION AUTHORITY

Head 36 – Dissolution day for purposes of this Part

To provide that

- (1) In this Part “dissolution day” shall be construed in accordance with *section (2)*.
- (2) The Minister shall, by order, appoint a day to be the dissolution day for the purposes of this Part.

Explanatory note:

Part 4 makes provision for a range of technical and transitional issues consequential on the dissolution of the office of the Property Registration Authority.

Head 36 is based on similar provision of *Section 55 of the Workplace Relations Act 2015*.

Head 37 – Dissolution of Property Registration Authority

To provide that:

- (1) The Property Registration Authority established by *section 9* of the *Act of 2006* shall, on the dissolution day, stand dissolved.
- (2) *Head 19* shall apply to the person who immediately before the dissolution day performed the functions of accounting officer of the Property Registration Authority subject to the modifications that –
 - (a) references in that section to the Chief Executive shall be construed as references to that person, and
 - (b) references to *Tailte Éireann* shall be construed as references to the Property Registration Authority.
- (3) This section shall come into operation on the dissolution day.

Explanatory note:

Head 37 provides for the Property Registration Authority to be dissolved and is based on similar provision in *Section 56 Workplace Relations Act 2015*.

Head 38 – Transfer of functions from the Property Registration Authority to Tailte Éireann

To provide that:

- (1) All functions that, immediately before the dissolution day, were vested in –
 - (a) The Property Registration Authority
 - (b) The Registrar of Titlesare transferred to Tailte Éireann.
- (2) Subject to this Act, references in any Act of the Oireachtas passed before the establishment day or in any instrument made before that day under an Act of the Oireachtas to:
 - (a) the Registrar of Titles, in respect of the period prior to the commencement of the Act of 2006;
 - (b) the Property Registration Authority, in respect of the period commencing on the date of the commencement of the Act of 2006 and the Act of 1978.shall, on and after that day, be construed as references to Tailte Éireann.
- (3) This section shall come into operation on the dissolution day.

Explanatory note:

Based on similar type provision of *Section 57 Workplace Relations Act 2015*

Head 38 provides for the transfer of all functions from the Property Registration Authority to Tailte Éireann. The functions, which are currently vested in the Property Registration Authority and which will transfer to Tailte Éireann, include:

- all functions as set out under Registration of Deeds and Title Act 2006 relating to the management and control of the Registry of Deeds and the Land Registry;
- the promotion and extension of the registration of ownership of land in Ireland, and,
- applications under Part III of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978.

The Head also provides a “catch all” provision at *subsection (2)* to ensure that references in all other enactments prior to commencement of this Act to the Property Registration Authority and to the Registrar of Titles are construed as Tailte Éireann.

Head 39 – Transfer of property of Property Registration Authority to Tailte Éireann

To provide that:

- (1) On the dissolution day all property (other than land), including choses-in-action, that immediately before that day, was vested in the Property Registration Authority shall stand vested in Tailte Éireann without any assignment.
- (2) Every chose-in-action vested in Tailte Éireann by virtue of *subsection (1)* may, on and from the dissolution day, be sued on, recovered or enforced by Tailte Éireann in the name of Tailte Éireann, and it shall not be necessary for Tailte Éireann, or the Property Registration Authority, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.
- (3) On the dissolution day all records that, immediately before that day, were records of the Property Registration Authority shall be records of Tailte Éireann and shall, accordingly, be transferred to Tailte Éireann.

Explanatory note:

Based on *section 58 Workplace Relations Act 2015*.

Head 40 – Transfer of rights and liabilities of Property Registration Authority to Tailte Éireann

To provide that:

- (1) All rights and liabilities of the Property Registration Authority subsisting immediately before the dissolution day and arising by virtue of any contract or commitment (expressed or implied) shall on that day stand transferred to Tailte Éireann.
- (2) Every right and liability transferred by *subsection (1)* to Tailte Éireann may, on and after the dissolution day, be sued on, recovered or enforced by or against Tailte Éireann in the name of Tailte Éireann, and it shall not be necessary for Tailte Éireann, or the Property Registration Authority, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

Explanatory note:

Based on section 59 Workplace Relations Act 2015.

Heads 39 and 40 provide for the transfer on dissolution day of all relevant land, property, liabilities, licences and the continuation of leases vested in the Property Registration Authority shall be transferred to Tailte Éireann on dissolution day.

Head 41 – Liability for loss occurring before dissolution day

To provide that:

- (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the dissolution day of any of the functions of the Property Registration Authority shall after that day, lie against Tailte Éireann and not against the Property Registration Authority.
- (2) Any legal proceedings pending immediately before the dissolution day to which the Property Registration Authority is a party, shall be continued, with the substitution in the proceedings of Tailte Éireann for the Property Registration Authority.
- (3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the Property Registration Authority, be enforceable against Tailte Éireann and not the Property Registration Authority.
- (4) Any claim made or proper to be made by the Property Registration Authority in respect of any loss or injury arising from the act or default of any person before the dissolution day shall be regarded as having been made by or proper to be made by Tailte Éireann and may be pursued and sued for by Tailte Éireann as if the loss or injury had been suffered by Tailte Éireann.

Explanatory note:

Based on *Section 60 Workplace Relations Act 2015*.

Head 41 is intended to provide for any liabilities of loss occurring prior to dissolution day, including allowing any legal proceedings pending immediately before dissolution day, to which the Property Registration Authority, is a party to continue with the submission of Tailte Éireann.

Head 42 – Provisions consequent upon transfer of functions, property, rights and liabilities to Tailte Éireann

To provide that:

- (1) Anything commenced and not completed before the dissolution day by or under the authority of the Property Registration Authority may, in so far as it relates to a function transferred to Tailte Éireann under *Head 38* be carried on or completed on or after the dissolution day by Tailte Éireann.
- (2) If, immediately before dissolution day, any proceedings are pending in any court or tribunal to which the Property Registration Authority is a party, the name of Tailte Éireann is substituted in the proceedings for that of the Property Registration Authority, and the proceedings do not abate by reason of the substitution.
- (3) Nothing in this Act affects the validity of any act done before dissolution day by or on behalf of the Property Registration Authority and any such act, if and in so far as it was operative immediately before that day, has effect on and after that day as if it had been done by or on behalf of Tailte Éireann.
- (4) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *Head 38*, shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made by Tailte Éireann.
- (5) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in Tailte Éireann under *Heads 39 and 40* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Explanatory note:

Technical provision. The intention here is to ensure continuity as between the dissolved Property Registration Authority and Tailte Éireann who will replace it. Based on *Section 61 Workplace Relations Act 2015*.

For the purposes of clarity, it is intended that all registrations and/or legal proceedings underway that the PRA is a party to, will continue in the name of Tailte Éireann post dissolution day.

Head 43 – Final accounts and final annual report of Property Registration Authority

To provide that:

- (1) The Chief Executive shall, in respect of the period specified under *subsection (3)*, prepare final accounts of the Property Registration Authority.
- (2) The Chief Executive shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the dissolution day.
- (3) For the purposes of *subsection (1)* the Minister may specify a period that is longer or shorter than a financial year of the Property Registration Authority.
- (4) The Chief Executive shall prepare the final annual report for the Property Registration Authority and submit the report to the Minister not later than 5 months after the dissolution day.

Explanatory note:

Technical provision in relation to the final accounts and annual report of the Property Registration Authority. Similar type provision under *Section 62 Workplace Relations Act 2015*.

PART 5
ORDNANCE SURVEY IRELAND

Head 44 – Dissolution day for purposes of this Part

To provide that:

- (1) In this Part “dissolution day” shall be construed in accordance with *subsection (2)*.
- (2) The Minister shall, by order, appoint a day to be the dissolution day for the purposes of this Part.

Explanatory note:

Part 5 makes provision for a range of technical and transitional issues consequential on the dissolution of the office of Ordnance Survey Ireland.

Head 44 is based on similar provision of *Section 55 of the Workplace Relations Act 2015*.

Head 45 – Dissolution of Ordnance Survey Ireland

To provide that:

- (1) Ordnance Survey Ireland established by *section 3* of the *Ordnance Survey Ireland Act of 2001* shall, on the dissolution day, stand dissolved.
- (2) This section shall come into operation on the dissolution day.

Explanatory note:

Head 45 provides for Ordnance Survey Ireland to be dissolved and is based on similar provision in *Section 56 Workplace Relations Act 2015*

Head 46 – Transfer of functions from Ordnance Survey Ireland to Tailte Éireann

To provide that:

- (1) All functions that, immediately before the dissolution day, were vested in Ordnance Survey Ireland are transferred to Tailte Éireann.
- (2) References in any enactment or instrument under an enactment to Ordnance Survey Ireland in so far as they relate to a function transferred by this section shall be construed as references to Tailte Éireann.
- (3) This section shall come into operation on the dissolution day.

Explanatory note:

Based on section 57 *Workplace Relations Act 2015*

Head 46 provides for the transfer of all functions from the Ordnance Survey Ireland to Tailte Éireann. The functions, which are currently vested in Ordnance Survey Ireland and which will transfer to Tailte Éireann, include:

- (a) providing a national mapping service in the State, and
- (b) operating in the public interest by creating and maintaining the definitive national mapping and related geographic records of the State.

(Reference *Section 4 Ordnance Survey Ireland Act 2001*)

The Head also provides a “catch all” provision at *subsection (2)* to ensure that references in all other enactments prior to commencement of this Act to Ordnance Survey Ireland are construed as Tailte Éireann.

Head 47 – Transfer of property of Ordnance Survey Ireland to Tailte Éireann

To provide that:

- (1) On the dissolution day all property (other than land), including choses-in-action, that immediately before that day, was vested in Ordnance Survey Ireland shall stand vested in Tailte Éireann without any assignment.
- (2) Every chose-in-action vested in Tailte Éireann by virtue of *subsection (1)* may, on and from the dissolution day, be sued on, recovered or enforced by Tailte Éireann in the name of Tailte Éireann, and it shall not be necessary for Tailte Éireann, or Ordnance Survey Ireland, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.
- (3) On the dissolution day all records that, immediately before that day, were records of Ordnance Survey Ireland shall be records of Tailte Éireann and shall, accordingly, be transferred to Tailte Éireann.

Explanatory note:

Based on section 58 Workplace Relations Act 2015.

Head 48 – Transfer of rights and liabilities of Ordnance Survey Ireland to Tailte Éireann.

To provide that:

- (1) All rights and liabilities of Ordnance Survey Ireland subsisting immediately before the dissolution day and arising by virtue of any contract or commitment (expressed or implied) shall on that day stand transferred to Tailte Éireann.
- (2) Every right and liability transferred by *subsection (1)* to Tailte Éireann may, on and after the dissolution day, be sued on, recovered or enforced by or against Tailte Éireann in the name of Tailte Éireann, and it shall not be necessary for Tailte Éireann, or Ordnance Survey Ireland, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

Explanatory note:

Based on section 59 Workplace Relations Act 2015.

Heads 47 and 48 provide for the transfer on dissolution day of all relevant land, property, liabilities, licences and the continuation of leases vested in Ordnance Survey Ireland shall be transferred to Tailte Éireann on dissolution day.

Head 49 – Liability for loss occurring before dissolution day

To provide that:

- (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the dissolution day of any of the functions of Ordnance Survey Ireland shall after that day, lie against Tailte Éireann and not against Ordnance Survey Ireland.
- (2) Any legal proceedings pending immediately before the dissolution day to which Ordnance Survey Ireland is a party, shall be continued, with the substitution in the proceedings of Tailte Éireann for the Ordnance Survey Ireland.
- (3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against Ordnance Survey Ireland, be enforceable against Tailte Éireann and not Ordnance Survey Ireland.
- (4) Any claim made or proper to be made by Ordnance Survey Ireland in respect of any loss or injury arising from the Act or default of any person before the dissolution day shall be regarded as having been made by or proper to be made by Tailte Éireann and may be pursued and sued for by Tailte Éireann as if the loss or injury had been suffered by Tailte Éireann.

Explanatory note:

Based on section 60 Workplace Relations Act 2015.

Head 49 is intended to provide for any liabilities of loss occurring prior to dissolution day, including allowing any legal proceedings pending immediately before dissolution day, to which Ordnance Survey Ireland, is a party to continue with the submission of Tailte Éireann.

Head 50 – Provisions consequent upon transfer of functions, property, rights and liabilities to Tailte Éireann

To provide that:

- (1) Anything commenced and not completed before the dissolution day by or under the authority of Ordnance Survey Ireland may, in so far as it relates to a function transferred to Tailte Éireann under *Head 46*, be carried on or completed on or after the dissolution day by Tailte Éireann.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *Head 46*, shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made by Tailte Éireann.
- (3) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in Tailte Éireann under *Heads 47 and 48* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Explanatory note:

Based on *section 61 Workplace Relations Act 2015*.

Technical provision. The intention here is to ensure continuity as between the dissolved Ordnance Survey Ireland and Tailte Éireann which will replace it. Based on *Section 61 Workplace Relations Act 2015*.

Head 51 – Final accounts and final annual report of Ordnance Survey Ireland.

To provide that:

- (1) The Chief Executive shall, in respect of the period specified under *subsection (3)*, prepare final accounts of Ordnance Survey Ireland.
- (2) The Chief Executive shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the dissolution day.
- (3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of Ordnance Survey Ireland.
- (4) The Chief Executive shall prepare the final annual report for Ordnance Survey Ireland and submit the report to the Minister not later than 5 months after the dissolution day.

Explanatory note:

Technical provision in relation to the final accounts and annual report of Ordnance Survey Ireland. Similar type provision under *Section 62 Workplace Relations Act 2015*.

BILL SCHEDULE

Board of Tailte Éireann

- (1) Tailte Éireann shall have a Board (in this Act referred to as the “Board”) consisting of the following members, that is to say -
 - (a) a chairperson, and
 - (b) 6 ordinary members.
- (2) Notwithstanding paragraph (4) the Minister, as required, may by order under this Schedule increase the number of members of Tailte Éireann to not more than 12 members where, in the opinion of the Minister, it is necessary taking account of the volume of business coming before Tailte Éireann and the need to ensure the effective and efficient discharge by Tailte Éireann of its functions, but any such increase is for such temporary period as shall be specified in the order and shall not exceed 2 years from the date of the commencement of the order.
- (3) The chairperson and the ordinary members of the Board shall be appointed by the Minister.
- (4) The Minister shall, in so far as is practicable, endeavour to ensure that among the members of the Board there is an equitable balance between men and women.
- (5) The chairperson of the Board shall hold office for the period of 4 years from the date of his or her appointment.
- (6) An ordinary member of the Board shall hold office for the period of 4 years from the date of his or her appointment.
- (7) Subject to paragraph 11), a member (other than the chairperson) of the Board whose term of office expires by the efflux of time shall be eligible for reappointment to the Board.
- (8) A person who is reappointed to the Board in accordance with paragraph (9) shall not hold office for periods the aggregate of which exceeds 8 years.
- (9) A member of the Board may resign from office by giving notice in writing to the Minister of his or her resignation and the resignation shall take effect on the day on which the Minister receives the notice.
- (10) A member of the Board may be removed from Office by the Minister for stated reasons.
- (11) A member of the Board shall cease to be qualified for office and shall cease to hold office if he or she –

- (a) is adjudicated bankrupt,
 - (b) is sentenced by a court of competent jurisdiction to a term of imprisonment,
 - (c) is convicted of any indictable offence in relation to a company,
 - (d) is convicted of any indictable offence in relation to a company or any other body corporate,
 - (e) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not, or
 - (f) is the subject of an order under section 160 of the Companies Act 1990.
- (12) A member of the Board shall, subject to the provisions of this Act, hold office upon such terms and conditions as may be determined by the Minister, with the consent of the Minister for Public Expenditure and Reform.
- (13) There may be paid by the Minister to members of the Board such allowances in respect of expenses (if any) incurred by them as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine.
- (14) If a member of the Board dies, resigns, ceases to be qualified for office and ceases to hold office or is removed from office, the Minister may appoint a person to be a member of the Board to fill the casual vacancy so occasioned in the same manner as the member of the Board who occasioned the casual vacancy was appointed.
- (15) A person appointed to be a member of the Board pursuant to paragraph 5 shall hold office for that period of the term of office of the member who occasioned the casual vacancy concerned that remains unexpired at the date of his or her appointment and shall be eligible for reappointment as a member of the Board on the expiry of the said period.
- (16) The Board shall hold such and so many meetings as may be necessary for the due fulfilment of its functions.
- (17) The Minister shall fix the date, time and place of the first meeting of the Board.
- (18) At a meeting of the Board –
- (a) the chairperson of the Board shall, if present, be the chairperson of the meeting, or
 - (b) if and so long as the chairperson of the Board is not present or if that office is vacant, the other members of the Board who are present shall choose one of their number to be chairperson of the meeting.
- (19) Every question at a meeting of the Board shall be determined by a majority of the votes of the members of the Board present and voting on the question, and, in the case of an equal division of votes, the chairperson shall have a second or casting vote.
- (20) Subject to paragraph (25) the Board may act notwithstanding one or more vacancies among its members.

- (21) Subject to the provisions of this Act, the Board shall regulate its procedure by rules or otherwise.
- (22) The quorum for a meeting of the Board shall, unless the Minister otherwise directs, be 5.

ⁱ Mulcreavy v. Minister for Environment, Heritage and Local Government & Ors. [2004] IESC 5